

STATE OF VERMONT
PUBLIC SERVICE BOARD

PSB DOCKET NO. 7970

Petition of Vermont Gas Systems, Inc.,
requesting a certificate of public good, pursuant to
30 V.S.A. Section 248, authorizing the construction
of the "Addison Natural Gas Project" consisting of
approximately 43 miles of new natural gas
transmission pipeline in Chittenden and Addison
Counties, approximately 5 miles of new distribution
mainlines in Addison County, together with three new
gate stations in Williston, New Haven and
Middlebury, Vermont.

September 17, 2013
9:30 a.m.
Montpelier, Vermont

Technical Hearing held before the Vermont
Public Service Board, at the Capital Plaza,
Montpelier, Vermont, on September 17, 2013,
beginning at 9:30 a.m.

P R E S E N T:

BOARD MEMBERS: James Volz, Chairman
David C. Coen
John D. Burke
George Young
Jay Dudley

COURT REPORTER: Deborah J. Slinn, RPR, CSR
California CSR 7918
New Hampshire CSR 79

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1 CHAIRMAN VOLZ: Good morning. We're
2 here this morning in Docket 7970 which is
3 Vermont Gas Systems proposal to develop into
4 Addison County expanded pipeline system to
5 Addison County.

6 I'd like to start by taking notices of
7 appearances. I'll start on my left.

8 MS. PORTER: For the Department of
9 Public Service, Louise Porter and Timothy
10 Duggan.

11 With the Department today are our expert
12 safety witness, Mr. Berger, who has already
13 taken the stand.

14 G.C. Mars, our gas engineer.

15 George Nagel of our Finance and
16 Economics Division.

17 T.J. Poor, our Planning and Energy
18 Resources Division.

19 CHAIRMAN VOLZ: Thank you.

20 MS. LEVINE: Sandra Levine, Conservation
21 Law Foundation.

22 MS. DILLON: Judith Dillon with the
23 Vermont Agency of Natural Resources.

24 MS. ZAMOS: Diane Zamos, Z-a-m-o-s,
25 Agency of Agriculture, Food and Market.

1 MR. LOUGEE: Good morning. Adam Lougee
2 on behalf of the Addison County Planning
3 Commission.

4 MR. DIAMOND: Joshua Diamond on behalf
5 of the Town of Monkton. I'm joined here
6 today by Steve Pilcher who is here as well.

7 MR. SCIARROTTA: Mark Sciarrotta, VELCO.

8 MS. FLORES: Julia Flores on behalf of
9 Chittenden Solid Waste.

10 MR. HAND: Geoff Hand from Dunkiel,
11 Saunders here representing Agri-Mark and
12 Cabot Creamery.

13 MR. PALMER: Nathan Palmer, my wife
14 Jane.

15 THE REPORTER: I'm sorry. I can't hear
16 you.

17 MR. PALMER: Nathan Palmer, my wife
18 Jane. Jeffrey Wolfe and Keith Brinner.

19 MS. HAYDEN: Kimberly Hayden, Downs,
20 Rachlin and Martin for Vermont Gas Systems.

21 CHAIRMAN VOLZ: Excuse me. Mr.
22 Hurlburt.

23 MR. HURLBURT: Michael Hurlburt,
24 property owner from Monkton.

25 MS. HAYDEN: I apologize. Kimberly

1 Hayden, Downs, Rachlin and Martin, for
2 Vermont Gas Systems.

3 And with me is Eileen Simollardes of
4 Vermont Gas Systems. John Heintz, Mark
5 Teixeira of Vermont Gas Systems. Jeffrey
6 Carr, Don Gilbert, Vermont Gas Systems. Jane
7 Powell, Steve Rork, Chris Leforce, and Jeff
8 Nelson. And also Charlie Pughe of Vermont
9 Gas Systems and Danielle Chingala of Downs,
10 Rachlin and Martin.

11 CHAIRMAN VOLZ: All right. I don't
12 believe there are any preliminary matters.
13 Do I have that wrong? We can go straight to
14 our first witness which is, I think,
15 Mr. Berger.

16 MR. COEN: Raise your right hand.

17 DAVID BERGER, called as a witness, and having
18 been first duly sworn by a Notary Public, was
19 examined and testified as follows:

20 MR. COEN: Please state your name.

21 MR. BERGER: My name is David Berger,
22 B-e-r-g-e-r.

23 CHAIRMAN VOLZ: We have a request into
24 the hotel to fix the microphones.

25 DIRECT EXAMINATION BY MS. PORTER:

Q Good morning, Mr. Berger.

1 A Good morning.

2 Q You stated your name. Could you please state your
3 occupation for the record?

4 A Yes. I'm a consultant on safety matters for both
5 gas and hazardous liquid pipelines and for gas and liquid
6 infrastructures.

7 Q Do you have two documents in front of you, one of
8 which is entitled Direct Testimony of David Berger and the
9 other which is entitled Rebuttal Testimony of David Berger?

10 A Yes, I do.

11 Q Were these prepared by you or under your direct
12 supervision?

13 A Yes, they were.

14 Q Do you have any corrections or clarifications you
15 would like to make to the document?

16 A No, I do not at this point.

17 Q Are there accurate and correct to the best of your
18 knowledge?

19 A Yes, they are.

20 MS. PORTER: The Department would move
21 for the admission of the testimony of David
22 Berger.

23 CHAIRMAN VOLZ: Any objections?

24 They are admitted.

25 MS. PORTER: Mr. Berger is available for

1 questions.

2 CHAIRMAN VOLZ: Okay.

3 MS. HAYDEN: Vermont Gas has no
4 questions of Mr. Berger.

5 CHAIRMAN VOLZ: Ms. Zamos?

6 MS. ZAMOS: As of this morning the
7 Agency has no questions either. Thank you.

8 CHAIRMAN VOLZ: I don't have anybody
9 else signed up, so does anybody else have
10 questions for him?

11 We have questions. I knew that.

12 CHAIRMAN VOLZ: Thank you. Go ahead,
13 Mr. Young.

14 MR. YOUNG: Let me turn to page 6 of
15 your direct testimony, please.

16 Starting at line 6 you state that
17 Vermont Gas should be conducting engineering
18 studies on how to minimize the consequences
19 of unexpected gas releases near populated
20 areas.

21 Has this been done?

22 THE WITNESS: Give me one second. Page
23 number, page 6, okay.

24 What Vermont Gas has done --

25 CHAIRMAN VOLZ: You're going to have to

1 speak up.

2 THE WITNESS: Okay. What Vermont Gas
3 has done in this situation is they have
4 implemented a whole series of additional
5 measures, safety measures, in order to
6 preclude their accidental release of natural
7 gas from an accident.

8 These measures have included both pipe,
9 the installation and construction, the
10 monitoring of the pipe, and also making the
11 pipe of a heavier wall, et cetera. So they
12 have taken that into consideration.

13 MR. YOUNG: So the concern you have
14 expressed here has now been addressed to your
15 standpoint?

16 THE WITNESS: Correct.

17 MR. YOUNG: Okay. Also on page 12 of
18 your direct testimony you talk about the need
19 for Vermont Gas Systems to consider future
20 needs.

21 Have the changes that have occurred
22 addressed that concern now?

23 THE WITNESS: Yes, they have. They have
24 looked at and they have actually proposed
25 putting in additional possible eight stations

1 to supply gas to municipalities along the
2 way.

3 MR. YOUNG: Let me turn to your rebuttal
4 testimony. And the bulk of your rebuttal
5 testimony is something that I'm a little
6 confused about. In some of it, and this may
7 be just be phraseology in some of it, you say
8 Vermont Gas has agreed to. In other places
9 you just state Vermont Gas will.

10 And my question is has Vermont Gas
11 agreed to do all of the things that you
12 described where you say will. I will give
13 you an example. If you look at, say, at the
14 bottom of page 6, line 15. You ask yourself
15 what additional insurance measures will VGS
16 be using. And then your answer is they must
17 do. And, well, have they agreed to do it?
18 Are they doing these things? I wasn't
19 exactly sure.

20 THE WITNESS: Yes, they have agreed to
21 do everything.

22 MR. YOUNG: So basically all of the
23 things until I get to, I believe it's page
24 13, where you have the additional safety
25 measures, with that agreement everything

1 before that to your understanding VGS has
2 agreed to do.

3 THE WITNESS: Correct.

4 MR. YOUNG: Is the Department to your
5 knowledge going to be recommending any
6 particular conditions to embody those
7 commitments or is that not necessary?

8 THE WITNESS: I'm not sure because
9 Vermont Gas has agreed to do all of this.
10 Whether it's in your fitness of use, et
11 cetera, I don't believe the Department is
12 going to add something to it. But these
13 would be conditions that VGS has agreed to
14 perform and do all of this additional work.

15 MR. YOUNG: Turning to page 13, you have
16 two additional recommendations; correct?

17 THE WITNESS: Correct.

18 MR. YOUNG: Have you discussed these
19 with Vermont Gas and do you know whether they
20 agreed with them?

21 THE WITNESS: Yes, we have discussed
22 this and Vermont Gas, upon clarification, has
23 agreed to do all of these in addition to the
24 ones prior to it.

25 MR. YOUNG: Thank you. Final area, have

1 you reviewed the stipulation between the
2 Addison County Regional Planning Commission
3 and Vermont Gas on certain emergency response
4 measures?

5 THE WITNESS: Yes, I have.

6 MR. YOUNG: And --

7 MS. PORTER: Pardon me, Mr. Young.

8 Do you have a copy of that with you,
9 Mr. Berger?

10 THE WITNESS: No, I do not.

11 MS. PORTER: Do you need one?

12 THE WITNESS: Yes, that would be
13 helpful. I have it electronically.

14 MR. YOUNG: Thank you. And is it your
15 understanding Vermont Gas and the Addison
16 County Regional Planning Commission still
17 have two items in dispute?

18 THE WITNESS: Yes, it is my
19 understanding.

20 MR. YOUNG: Do you have, or do you on
21 behalf of the Department have any
22 recommendations about how the Board should
23 resolve that dispute between those two
24 parties?

25 THE WITNESS: Well, on the situation of

1 having gas meters and tools to actually
2 operate gas utilities, as an ex gas operator
3 I have some concerns with that. Under
4 federal code only trained and qualified
5 people can do this kind of work. And other
6 people are not permitted to do this work.
7 Nor is the, I'm going to say either the
8 readings that they get, per se, are not, for
9 example, using gas detectors or not
10 legitimate because you do not have a
11 qualified person.

12 It's been the contention of most gas
13 companies that they would prefer to have
14 their own people who have training who are
15 qualified to perform this kind of work.

16 Where they have had in the past, and in
17 the United States typically, is shutting off
18 gas service to an individual home with a
19 shutoff valve, but not doing work on mains,
20 et cetera.

21 And that becomes -- basically you need
22 to get operator qualified which is under the
23 federal code. Each and every individual has
24 to be, who does that work and then they have
25 to be periodically requalified. Okay?

1 It is a concern I know for the gas
2 company that this would be -- could be a
3 nightmare of who is doing the work, have they
4 been trained, and are they putting more
5 people in danger possibly from doing this
6 work which they think is the right thing.
7 It's not a question of their not trying to do
8 the right thing. They think they are doing
9 the right thing.

10 So I have a concern with that along with
11 I know VGS does. It would be my
12 recommendation that that is something that
13 really needs to be explored in greater detail
14 before you want outsider people.

15 MR. YOUNG: Great. Do you have anything
16 more?

17 THE WITNESS: I believe that was the big
18 area that they had a disagreement over.

19 MR. YOUNG: Okay. Great. I have no
20 further questions. Thank you very much.

21 CHAIRMAN VOLZ: Anybody else up here,
22 any follow-up to Mr. Young's questions?

23 MR. LOUGEE: Mr. Berger.

24 THE WITNESS: Yes.

25 ////

1 CROSS EXAMINATION BY MR. LOUGEE:

2 Q Good morning. I'm Adam Lougee from the Addison
3 County Regional Planning --

4 MR. COEN: The mic is off.

5 MR. LOUGEE: Oh.

6 CHAIRMAN VOLZ: Just speak up. I know
7 you can.

8 BY MR. LOUGEE:

9 Q In your testimony you just stated that you did not
10 feel tools for working on the main line were appropriate,
11 but tools for working on individual shutoffs to individual
12 homes might be appropriate for a local fire department; is
13 that correct?

14 A Maybe, yes. It depends on the training, how much
15 training they've gotten, how familiar they are with it, et
16 cetera in shutting off the gas.

17 Typically you would have a shutoff valve on the
18 outside of the house. You do not want to also put the
19 firemen at work, per se. And they need to be trained on,
20 i.e., what's more important, their lives or property.

21 Q Sure.

22 A You don't want a hero there. You want somebody
23 there to understand lives are the most important. And
24 property is always secondary.

25 Q Very good. And I am sure the fire department in

1 Addison County would agree with that.

2 One of the things -- you have our Memoranda of
3 Understanding before you; correct?

4 A Correct.

5 Q Would you agree that that Memoranda of Understanding
6 includes requesting training for the firefighters in
7 Addison County from Vermont Gas?

8 A Correct.

9 Q So assuming that we get that, firefighters get that
10 training, do you feel it would be appropriate for them to
11 be able to shut off individual units if they felt the
12 situation was safe and warranted it?

13 A I would believe it would have to be mutually agreed
14 upon between the fire department and Vermont Gas that they
15 had sufficient training; that they were able to do that
16 work; and that they had all of training and periodic
17 refreshers they need to have. It may only be limited to
18 certain individuals. I don't know how that would work.

19 As I said, I'm giving you a broad context that I
20 have seen across the whole country working with various
21 different gas companies.

22 Q Very good. The meters, can we switch from the tools
23 to the meters, basically detectors?

24 A Yes.

25 Q Would you refresh my memory on what your position

1 was regarding detectors being available?

2 A I believe that having detectors available may not be
3 a good idea. Simply because of the training, the
4 calibration, and the need to have this constantly done and
5 refreshed and also that the gas company people, okay, are
6 the experts at it. And they have had all the training.
7 They put their meters through the different stops.

8 Now, that being said, okay, if you had an untrained
9 person use a meter, those results may not be accurate and
10 may not be the real result. Whether it's good or bad, and
11 you don't want basically a false negative. You don't want
12 to have somebody use a meter and say that this isn't a
13 problem, it hasn't reached the explosive level and,
14 therefore, you don't have to have the gas company out.
15 They should come out to do it. That's the way you would
16 want to do it. And that's why I suggest that possibly that
17 may not be necessarily a good idea.

18 The reason historically that natural gas has been
19 odorized is so that we all have gas meters. It's called
20 this. And typically you can smell it well before it is a
21 problem and, therefore, you are supposed to, and I know VGS
22 tries to encourage this, you smell gas, call the gas
23 company.

24 All the gas that's going to be delivered to Addison
25 County is going to be odorized. In fact, in my testimony

1 we talked about initially going a little bit above and
2 beyond to ensure that the first gas coming through has
3 sufficient odor in it so it can be detected. And that's
4 the whole purpose of the odorant isn't necessarily that
5 you need a gas detector, go out -- basically if you can
6 smell it, call them.

7 Q You would agree that basically the first step of
8 prevention is early identification?

9 A Most definitely.

10 Q Okay. What you question is whether this meter would
11 help in the early identification of gas.

12 You agree that the fire department needs to be able
13 to identify that there is a problem and then call Vermont
14 Gas; correct?

15 A Correct. Well, not necessarily. Anybody.

16 Q Anybody.

17 A Anybody who smells gas should be calling Vermont Gas
18 and having somebody come to check it out.

19 Q Are you familiar with Vermont Gas's response times?

20 A In Addison County, no, I am not.

21 Q If I told you that Vermont Gas had agreed to respond
22 in the same manner in Addison County as they would in
23 Chittenden County and Franklin County, would that help?

24 A I'm not exactly totally familiar on what their
25 average response time is, et cetera.

1 Q Assume that their response time is somewhere in the
2 neighborhood of 30 minutes.

3 A Uh-huh.

4 Q Is that, well, do you think it would be beneficial
5 to have trained fire personnel on the scene earlier with
6 proper equipment to detect basically a potential situation
7 on the ground?

8 A Again, it's always better to find something earlier
9 as you mentioned. The problem is the administrative
10 details and the legality of having people using meters who
11 are not gas company employees. And the traceability of
12 that meter in case there is an incident or an accident.

13 Historically in the gas industry 30 minutes is the
14 typical response time. Okay. We are talking here
15 typically, okay, of what we would call as a leak in the
16 area of distribution I think by and large that you are
17 talking about.

18 Q I have no further questions.

19 CHAIRMAN VOLZ: Thank you. Any
20 redirect?

21 MS. PORTER: No, sir. Thank you.

22 CHAIRMAN VOLZ: Mr. Berger, you are
23 excused. Thank you very much.

24 The next witness is Steven Pilcher. Is
25 that right, Mr. Diamond?

1 MR. DIAMOND: Mr. Pilcher.

2 STEVEN PILCHER, called as a witness, and
3 having been first duly sworn by a Notary Public, was
4 examined and testified as follows:

5 MR. COEN: You are going to have to
6 speak up.

7 THE WITNESS: Usually not a problem.

8 DIRECT EXAMINATION BY MR. DIAMOND:

9 Q Mr. Pilcher, what is your occupation?

10 A I'm a consultant, self-employed.

11 Q And vis-a-vis the town, what is your role?

12 A I'm vice chair of the select board in Monkton, in
13 the town of Monkton.

14 Q How long have you served in that capacity or served
15 on the Board as a whole?

16 A I was elected in March of 2009.

17 Q And with you do you have some documents that have
18 been submitted to the Board?

19 A I do.

20 Q Does that include, first off, your Prefiled
21 Testimony of June 14th, 2013?

22 A Yes.

23 Q Which constitutes approximately five pages?

24 A Yes.

25 Q And do you have as well two exhibits that accompany
that Prefiled Testimony?

1 A Yes.

2 Q First is a letter that was written to the Public
3 Service Board on behalf of the town of Monkton on or about
4 January 17th, 2013?

5 A Yes.

6 Q And then second a Memorandum of Understanding which
7 was reached with Vermont Gas and the town of Monkton?

8 A Yes.

9 Q Are these fair and accurate copies of exhibits that
10 are referenced in your Prefiled Testimony?

11 A Yes.

12 Q In addition, do you also have a copy of what's
13 titled Supplemental Prefiled Testimony of Steven Pilcher
14 dated August 14, 2013?

15 A I do.

16 Q And does that also have an Exhibit SP-3 which is a
17 report by Mark Stevens from C-Fer Technologies?

18 A Yes.

19 Q Is this a fair and accurate copy of the exhibit
20 that's referenced in your Supplemental Prefiled
21 Testimony?

22 A Yes, it is.

23 Q Are there any typo or minor corrections to your
24 Supplemental Prefiled Testimony that need to be made?

25 A Yes, actually the header of this document references

1 a date of June 14th. That's in the upper right-hand
2 corner. That should really read August 14.

3 Q All right.

4 A It continues through the five pages of the document.

5 Q Would it also be more accurate to say this is
6 actually rebuttal testimony as opposed to supplemental
7 testimony?

8 A That's true. It was rebuttal testimony with regards
9 to ANR.

10 Q And does the testimony in the prefiled document as
11 of June 14th, and then your rebuttal as of October, excuse
12 me, August 14 reflect your true and accurate testimony for
13 the matters here in this docket?

14 A It does.

15 MR. DIAMOND: If it may please the Court
16 I would like to submit the prefiled testimony
17 exhibits.

18 CHAIRMAN VOLZ: Any objection?

19 Okay. They are admitted.

20 MR. DIAMOND: Before turning over this
21 witness to cross examination, Mr. Chairman, I
22 would like to offer or have a few questions
23 to present surrebuttal that really are in
24 direct relationship with the discussions with
25 Vermont Gas's witness on the Rotax Road area

1 and alignment of the pipeline.

2 CHAIRMAN VOLZ: Okay. Just one second.

3 That will be fine, thank you.

4 BY MR. DIAMOND:

5 Q Mr. Pilcher, do you have with you a copy of Exhibit
6 surrebuttal testimony EMS-1 which is a map of the Rotax
7 area in the town of Monkton?

8 A I do.

9 Q All right. It's my understanding it would be
10 helpful to the Board, there is a blowup of that exhibit
11 that is right behind you. Unless everyone is comfortable
12 utilizing their handouts.

13 CHAIRMAN VOLZ: Okay. That would be
14 good.

15 BY MR. DIAMOND:

16 Q So there was discussion yesterday, Mr. Pilcher,
17 about what impacts there might be if this pipeline was
18 rerouted back into the VELCO corridor.

19 Are you familiar with this part of town?

20 A Yes, I am.

21 Q Are you familiar with the residents who are in this
22 area of town?

23 A I know some of them personally. I certainly, I
24 certainly know their names.

25 Q Right. So there appears to be four residences

1 identified on this map --

2 A Yes.

3 Q -- near the VELCO corridor.

4 A Yes.

5 Q Do you recognize that?

6 A Yes.

7 Q Could you assist the Board in putting some names
8 with these residences so we know who we are talking about?

9 A Sure. This one I will sort of go from top to bottom
10 on this map which is really, really west to east. This is
11 the Bailey property. This one over here is Mayo.

12 Q So it would be fair to say the Bailey property is
13 somewhat east of pole 187?

14 A That is south of 187.

15 Q All right. And the Mayo property that you just
16 identified?

17 A The Mayo property is the property closest to pole
18 187. It is, that would be north, northwest of pole 187.

19 Q All right. Please go on.

20 A And then down by pole 189 to the north, directly to
21 the north of pole 189, that is the Latrielle house, the
22 Latrielle residence.

23 Q And then --

24 A That's right here. And then directly to the south,
25 or essentially directly to the south, that's the McGuinness

1 residence.

2 Q And are you aware of any other potential wells that
3 might be in close proximity to that VELCO corridor other
4 than the McGuinness well that's identified here?

5 A I do have some well information. There is a well, I
6 believe, very close to -- on the Mayo property, basically
7 parallel to the VELCO line and somewhat close to the VELCO
8 right-of-way.

9 Q All right. And how did you determine where the
10 location of that well was?

11 A I got well information from, I called Addison County
12 Regional Planning, talked to Kevin Behm who is -- we
13 exchange GIS data from time to time. And he gave me well
14 information that's arrived from ANR marked 2011. That data
15 is basically comes from when a well is drilled, the well
16 driller has a responsibility to locate the latitude and
17 longitude.

18 Q And with regards to Ms. McGuinness's well, are you
19 familiar with that well?

20 A I am. In fact it's shown on this map. It's not
21 actually a well, it's a spring. So in that respect it
22 doesn't show up on the ANR data since it's not a drilled
23 well.

24 Q I have nothing further.

25 CHAIRMAN VOLZ: Thank you.

1 MR. DIAMOND: Turn over the witness for
2 cross examination.

3 CHAIRMAN VOLZ: Mr. Palmer, do you have
4 questions for this witness?

5 MR. PALMER: Yes, I do.

6 CHAIRMAN VOLZ: Thank you. Why don't
7 you go ahead.

8 CROSS EXAMINATION BY MR. PALMER:

9 Q Hi Steve.

10 A Hi Nate.

11 Q When did you first hear that VGS was considering
12 siting the proposed pipeline project through Monkton?

13 A The very first occurrence, I would have said that
14 that was -- I don't have those documents with me. There
15 was a -- I believe it was April of 2013.

16 Q Did VGS have intentions of providing residential
17 services to any residents in Monkton at that time?

18 A It did not.

19 Q What do you think changed your mind about offering
20 distribution to Monkton?

21 A I believe that there was part of the Memo of
22 Understanding and negotiations that the town of Monkton
23 undertook with Vermont Gas in generating the Memo of
24 Understanding.

25 Q At the first informational meeting in December of

1 2012 VGS had in Monkton, what was the mood or general
2 feelings of the residents in Monkton toward the VGS
3 pipeline project?

4 A I believe that there was a lot of concern with
5 residents in Monkton, had expressed quite a bit of concern
6 about having that pipeline come through the town of
7 Monkton.

8 Q Monkton residents put up quite a bit of raucous in
9 reaction to --

10 THE REPORTER: Can you speak up a little
11 bit, please?

12 BY MR. PALMER:

13 Q As a result of that community pressure, VGS moved
14 the group off the road to the burrow in Mountain Road back
15 onto the VELCO corridor for most of the route. At the same
16 time the route changed Norman Norris's farm, instead of
17 continuing down the VELCO corridor as it had in the
18 original route, it was rerouted past our land to
19 Latrielle's land.

20 Do you know why this deviation occurred?

21 A I can speak only to part of that, Mr. Palmer. When
22 there was the initial siting by Vermont Gas, I believe that
23 was the December 2012 route, the select board as part of
24 the negotiations with the -- the select board wrote a
25 letter to Vermont Gas stating a preference for having a

1 300-foot setback from all gas lines to residences and wells
2 in the town of Monkton.

3 Q So that is a direct result of community pressure?

4 A Yes.

5 Q Two articles pertaining to the GPS pipeline in the
6 March Town Meeting as a result of the petition being
7 circulated in the town.

8 Can you share the content of those with the Board?

9 A I can. Hold on just a second, Nate. It's in my
10 briefcase.

11 MR. DIAMOND: Mr. Chairman, I'd like to
12 see what my client is looking at.

13 CHAIRMAN VOLZ: Sure. Go ahead.

14 THE WITNESS: I'm sorry. This was two
15 articles that appeared in the Town Meeting
16 Day. Do you have a copy of those?

17 MR. DIAMOND: I'm looking over your
18 shoulder.

19 THE WITNESS: That's fine. I printed
20 out copies of that exact text of those
21 articles in case they came, they came --
22 Nate, do you have copies of those? The -- I
23 have it. I'm sorry. I'm sorry, Nate, your
24 question again?

25 ////

1 BY MR. PALMER:

2 Q I think you can share the content of those with the
3 Board.

4 A I can. There were two articles. They were passed
5 at Town Meeting Day in Monkton on -- that would be -- that
6 would have been March 2013.

7 The first was Article 9. Shall the voters of
8 Monkton authorize the select board to form a legal fund to
9 represent the town's interest in the PSB proceedings for
10 the Addison Natural Gas Project, especially an issue that
11 would have an adverse impact on the health, safety or
12 aesthetics of the town for the sum not to exceed \$50,000.

13 Article 10. Shall the votes of Monkton advise the
14 select board not to issue any road permits for any
15 transmission pipeline route that follows any town road
16 right-of-way under any circumstance, and not to issue any
17 permits for transmission line pipelines to cross any town
18 roads until town residences concern about save setbacks are
19 addressed.

20 Q Did you either of those pass?

21 A They both passed.

22 Q There were changes made to those articles; correct?

23 A You mean during the course --

24 Q Yes.

25 A -- Town Meeting? There were. Several.

1 CHAIRMAN VOLZ: What you read was --

2 THE WITNESS: This was what was passed
3 at Town Meeting day.

4 CHAIRMAN VOLZ: Okay.

5 BY MR. PALMER:

6 Q Was it a close vote?

7 A No, it was not.

8 Q It was pretty unanimous.

9 Why do you think the people of the town felt the
10 need to get authorization to hire a lawyer to represent the
11 town's interest?

12 MR. DIAMOND: I'm going to caution my
13 client not to reveal what might be considered
14 attorney-client communications. And to the
15 extent he can answer this without doing so,
16 otherwise we object.

17 A Nate, this was article was brought forth by
18 petition, as I recall, to the select board to ensure that
19 there were adequate funds for the town to have
20 representation in front of the PSB.

21 Q So Article 10, there is wording that is suggesting
22 the meeting voted upon, to be more specific, safe setbacks
23 in place. Do you remember what that wording changed?

24 A I do not.

25 Q During the process of composing the MOU between

1 Monkton and VGS there is quite a bit of discussion.

2 Did the first version of that MOU get passed
3 unanimously?

4 A It did not.

5 Q Why not?

6 A The first version of the MOU did not, in fact, did
7 not get passed at all. It was rejected on a vote of two to
8 three.

9 There was some request, there were some requests,
10 there were some changes -- several of the select board
11 members and the residents of the town wanted to see made to
12 the MOU before it was agreed to.

13 Q What were those changes?

14 A I can't tell you exactly all of the changes that
15 were made. The ones that I can definitely point to, there
16 was language added on the second page of the MOU, that
17 first paragraph, where the town has requested VGS to modify
18 its pipeline alignment be placed at least 300 feet from
19 existing residential homes and wells, was added to the
20 preamble.

21 And then there was -- the other piece of that that I
22 remember having been added was, I believe, under, on page
23 9, Section 6, easements and other miscellaneous items. I
24 believe we added the wording for E, VGS shall negotiate in
25 good faith with the town residents with respect to the

1 acquisition of easements. VGS agreed to commence taking
2 litigation and use of element domain only as a last resort.

3 Q You took out the general support for the pipeline?

4 A That's correct. I don't remember what that exact
5 wording was, but it did get --

6 Q Were all of the select board asked to address the
7 final version of the MOU?

8 A All asked?

9 MR. DIAMOND: If I may assert an
10 objection to the extent the answer involves
11 an attorney-client communication, I'm going
12 to ask my client not to reveal that to the
13 extent he can answer it otherwise.

14 MS. HAYDEN: I'm also going to object to
15 the extent it's seeking confidential
16 settlement discussions under Rule 408.

17 CHAIRMAN VOLZ: Between Vermont Gas and
18 the town?

19 MS. HAYDEN: Between Vermont Gas and the
20 town.

21 CHAIRMAN VOLZ: We are going to sustain
22 the objection.

23 And, Mr. Pilcher, I just wanted to give
24 a little guidance here. Conversations you
25 had with your attorney you shouldn't

1 reveal.

2 THE WITNESS: Yes.

3 CHAIRMAN VOLZ: Settlement negotiations
4 between the town and Vermont Gas you
5 shouldn't reveal. However, publicly
6 announced statements about what the town was
7 hoping to gain out of this negotiation are
8 certainly something you agree with to --

9 THE WITNESS: Sure. You know, I
10 certainly can say that with any negotiation
11 both sides give up something. And so did we
12 get absolutely everything we wanted? No.
13 Did Vermont Gas get everything that they
14 wanted? No.

15 BY MR. PALMER:

16 Q Would you be specific what you didn't get?

17 MS. HAYDEN: Objection. Unless, except
18 to the extent that there is -- I am not aware
19 of any public statements, but Mr. Pilcher may
20 know. I don't remember that there was any
21 kind of press release or public document that
22 spoke to this. I'm unaware of that.

23 CHAIRMAN VOLZ: The town select board
24 may have had conversations at their meetings
25 that were public about what they wanted.

1 To the extent that that happened, you
2 can certainly talk about that.

3 Just a second.

4 MR. COEN: I want to ask a question.

5 Were the select board discussions, the
6 agreement with Vermont Gas, in executive
7 session or public session?

8 THE WITNESS: I'm sorry, the negotiation
9 between the representatives of the town, the
10 select board, that was myself and John
11 Phillips and Vermont Gas took place at
12 Vermont Gas's facilities. It was not a
13 public meeting.

14 MR. COEN: When you went back to the
15 select board and discussed what you had
16 negotiated, was that in public session or
17 executive session?

18 THE WITNESS: That was in public
19 session.

20 MR. COEN: Thank you.

21 MR. DIAMOND: If I may.

22 CHAIRMAN VOLZ: Excuse me.

23 MR. DIAMOND: I'm not sure how to
24 communicate this. If I may proffer, I'm
25 aware of executive sessions that took

1 place.

2 THE WITNESS: Oh, you are correct, yes.
3 I am mistaken. There were executive sessions
4 that took place when we discussed ongoing
5 negotiations with Vermont Gas.

6 CHAIRMAN VOLZ: Okay. I think it's fair
7 to say anything that was public you discussed
8 you can talk about it. And otherwise you are
9 not free to talk about things that weren't
10 related to the negotiations.

11 THE WITNESS: Thank you.

12 MR. BURKE: Mr. Palmer, could I just
13 interrupt you for a second?

14 How did you feel about this? How did
15 you feel as a selectman about the agreement?
16 That's not executive session, that's you.

17 THE WITNESS: No, and I have said
18 repeatedly, I guess the best way to say it is
19 that I have, my feelings about Vermont Gas
20 and the pipeline was that they were not the
21 neighbor that I would wish, but if they were
22 going to be my neighbor I was going to try to
23 make them be the best neighbor I possibly
24 could.

25 And this Memo of Understanding that we

1 reached with Vermont Gas was certainly our
2 attempt to make them the best neighbor that
3 we could have in Monkton.

4 MR. BURKE: Thank you.

5 THE WITNESS: Sure.

6 MR. BURKE: Mr. Palmer, sorry. I
7 thought that would help.

8 BY MR. PALMER:

9 Q So in the final version of the MOU between the town
10 of Monkton and VGS -- in the final version of that MOU
11 between the town of Monkton and VGS there is a sentence
12 that states, the town is requested VGS to modify its
13 pipeline alignment at least 300 feet from existing
14 residential homes and wells.

15 How was that request resolved?

16 A This is a sentence that occurs on the top of page
17 two that you are reading, Mr. Palmer?

18 Q It was.

19 A There remains in Monkton several houses which do not
20 meet that 300-foot setback that we requested.

21 Q So it's not exactly resolved.

22 Do you think VGS did everything in their power to
23 accommodate the town of Monkton?

24 A I believe they did.

25 Q Have you pursued all possible results as speaking,

1 speaking with other landowners on the VELCO corridor as far
2 as the impact on their land there would be a possibility of
3 putting that back on the VELCO road?

4 A I have not.

5 Q I think that takes care of my questions. I think
6 that takes care of my questions.

7 CHAIRMAN VOLZ: Okay. Thank you.

8 Ms. Dillon, do you have questions for
9 this witness.

10 MS. DILLON: I don't.

11 CHAIRMAN VOLZ: Excuse me?

12 MS. DILLON: No, thank you.

13 MR. COEN: Good morning.

14 THE WITNESS: Good morning.

15 MR. COEN: In the deal that the town
16 made with VGS, part of that was to have a
17 gate station to get local service for gas in
18 the town; is that correct?

19 THE WITNESS: That's correct.

20 MR. COEN: And how many mobile homes
21 does that serve? Do you have any idea? What
22 is the upward limit of the homes?

23 THE WITNESS: I don't recall the exact
24 number of homes. I think it was something in
25 the 70 to 80 range.

1 MR. COEN: In terms of the public
2 facilities, is the school basically the
3 public facility that would be served by this?

4 THE WITNESS: The school that, the
5 school, the town garage, the Town Hall, were
6 public facilities that would be serviced.

7 MR. COEN: And under current cost for,
8 under current cost do you have a sense of how
9 much money that would save the town per year?

10 THE WITNESS: I'm sure you have heard
11 from other testimony it's purely dependent on
12 what the price difference is between --

13 MR. COEN: Right.

14 THE WITNESS: -- at current. It was
15 approximately \$10,000 worth of savings to the
16 school.

17 MR. COEN: Okay. And the town, garage
18 and that would be significantly less?

19 THE WITNESS: Significantly less.

20 MR. COEN: Thank you.

21 THE WITNESS: Good morning.

22 MS. TIERNEY: I don't want to go into
23 your settlement discussions with VGS. I want
24 to have a brief exchange with you that is a
25 little broader in concept.

1 I have to assume from the agreement that
2 you reached that you made a decision that you
3 would put the town of Monkton's interest
4 ahead of those interests of anyone who would
5 have to take the burden of the pipeline if
6 the town of Monkton did not; is that right?

7 THE WITNESS: I'm sorry, I'm not sure I
8 understand the question.

9 MS. TIERNEY: Okay. When VGS proposed
10 it's pipeline to go through Monkton.

11 THE WITNESS: Yes.

12 MS. TIERNEY: You folks were opposed to
13 that in the town; is that correct?

14 THE WITNESS: I believe actually the
15 select board signed a letter very early on
16 that said if it ran into VELCO pipeline, the
17 VELCO corridor.

18 MS. TIERNEY: But when it was first, not
19 the first as a result of pipeline it was
20 going to go through the town --

21 THE WITNESS: Yes.

22 MS. TIERNEY: -- something you opposed?

23 THE WITNESS: Absolutely.

24 MS. TIERNEY: And when you were reaching
25 your agreement with the company you

1 understood that it meant somebody else was
2 going to have to assume the burden of the
3 pipeline; is that right?

4 THE WITNESS: Yes.

5 MS. TIERNEY: That's the part I want to
6 ask about.

7 THE WITNESS: Okay.

8 MS. TIERNEY: How did the reasoning go
9 of the select board in accepting that looking
10 out for the interest of the town of Monkton
11 would mean accepting a burden on other
12 people? How did you justify that?

13 THE WITNESS: In some sense what we did
14 was we didn't pick the pipeline route. What
15 we did is we gave what we thought were
16 reasonable criteria by which to pick a
17 pipeline route.

18 Is that an answer to your question?

19 You said 300 -- we said -- we said we
20 wanted 300-foot setbacks.

21 MS. TIERNEY: Fair enough.

22 Now, when you made that decision and you
23 entered your agreement with the company, did
24 you understand that people like the Palmers
25 would be assuming the burden of the pipeline

1 instead across their land?

2 THE WITNESS: Yes.

3 MS. TIERNEY: How did you justify that?

4 THE WITNESS: So, as with anything, we
5 were interested in making -- we felt like we
6 made significant headway on other parts. We
7 were worried about easement language. These
8 are all reflected in the MOU. We were
9 worried about easement language. We were
10 worried about distribution for the town of
11 Monkton. We were concerned about
12 construction techniques, safety. We were
13 worried about the environmental impact on
14 the -- on various parts, you know, wetlands
15 in Monkton.

16 Justified, we basically said this was
17 the best deal we could get.

18 MS. TIERNEY: And when you said it was
19 the best deal you understood it wasn't a
20 perfectly deal; is that right?

21 THE WITNESS: That's true.

22 MS. TIERNEY: And if this Board faces a
23 similar weighing, the Board has to choose
24 between a best deal or no deal. What do you
25 think the Board ought to do?

1 THE WITNESS: This is a -- that's a
2 difficult question. That's a very difficult
3 question. And I'm not sure that my opinion
4 is the opinion of the rest of the select
5 board.

6 MS. TIERNEY: Fair enough. I am asking
7 you because you sat where the Board is
8 sitting today. You had to make a decision on
9 the basis of the citizens and the town, and
10 the citizens in the surrounding area of
11 Monkton. It would appear to me that the
12 decision was that the town of Monkton was
13 going to get one treatment, and the Palmers,
14 by default, were going to get another.

15 So I'm asking you, somebody who sat in
16 the position making that decision, what do
17 you recommend to this Board as it faces that
18 decision?

19 THE WITNESS: So, I guess the real
20 answer is we had a different decision to make
21 than I think the Board has to make. The town
22 of Monkton was facing a decision. Certainly
23 this was a belief of the select board that we
24 had two choices. We could decide to fight
25 the pipeline in its entirety or we could try

1 and negotiate with Vermont Gas to make the
2 pipeline fit in the town of Monkton a little
3 better to make them, if you will, a better
4 neighbor.

5 I think the Public Service Board has a
6 different decision. Your decision is does
7 the public good of the pipeline outweigh, you
8 know, individual losses. I'm not quite sure
9 what the right verbiage is, but does it
10 outweigh the harm that it causes to both
11 communities and individual property owners.

12 As well as, I mean, I personally have
13 been very convinced by some of the arguments
14 that I've heard. Not that I'm any expert
15 that would say that the pipeline may not be
16 in the best interest of the State of Vermont.
17 But that's personal on my part.

18 MS. TIERNEY: Very helpful, thank you.

19 THE WITNESS: Sure.

20 MR. YOUNG: Just a couple of questions,
21 Mr. Palmer.

22 THE WITNESS: Good morning.

23 MR. YOUNG: In the MOU does -- is the
24 town accepting the current proposed route as
25 the preferred route?

1 THE WITNESS: That's true. What we
2 asked, what we asked, what we asked Vermont
3 Gas to do, at the end of section 2-A, that's
4 on page 2, middle of page 2. We asked VGS
5 shall actively advocate and take those steps
6 reasonably necessary to obtain approval of
7 this route as set forth herein.

8 MR. YOUNG: And that's the current
9 proposed route with the Rotax Road divergence
10 from the VELCO corridor; correct?

11 THE WITNESS: Yes.

12 MR. YOUNG: So the town has a preference
13 for that diversion rather than going back
14 onto the VELCO corridor?

15 THE WITNESS: I guess the easiest way to
16 say this is we looked at residences and how
17 close they were to the VELCO line. And where
18 we believe the VELCO, I'm sorry, the Vermont
19 Gas line could be sited. So when we did
20 that, and just based strictly on our 300-foot
21 setback, the current siting was the best
22 siting, yes.

23 MR. COEN: Did you take into account
24 whether or not those residence were built
25 before or after the VELCO line went in?

1 THE WITNESS: We did not.

2 MR. COEN: Thank you.

3 MR. YOUNG: Does the town have any
4 position on the exact siting in the area of
5 the Palmer property? I don't see it in the
6 MOU.

7 THE WITNESS: No, we do not. As I say,
8 in some sense Vermont Gas has already
9 fulfilled its obligation.

10 No, if Vermont Gas can find a way to get
11 further away from the Palmers either
12 incrementally or totally, we would be in
13 favor of that.

14 MR. YOUNG: Let me ask one final area.

15 On page 6, not of your testimony, the
16 stipulation, the MOU.

17 THE WITNESS: Yes.

18 MR. YOUNG: Condition, I believe it's
19 G-3 here which states, prior to performing
20 any blasting petitioner should develop and
21 file for board approval a blasting plan.

22 Do you see that?

23 THE WITNESS: Yes.

24 MR. YOUNG: Have you seen the blasting
25 plan that is attached to Mr. Heintz's, I

1 believe it was his rebuttal testimony?

2 THE WITNESS: I have seen it. I have
3 not reviewed it.

4 MR. YOUNG: So if I were to ask you
5 whether that addressed your concerns
6 inadequately, this condition, if you haven't
7 seen it, haven't read it, you can't answer
8 that.

9 THE WITNESS: That's correct.

10 MR. YOUNG: Okay. Thank you very much.

11 MR. BURKE: Mr. Pilcher, I suspect some
12 of the pain Mr. Palmer feels is embodied in
13 your answer that you gave earlier that while
14 this is VGS's route, we didn't actually pick
15 this route, we gave criteria.

16 That has kind of a Pontius Pilate type
17 overtone to it. Let me ask you this.

18 Do you believe in the position that you
19 are in as a selectman, do you believe that
20 sometimes the individual has to suffer for
21 the good of the whole?

22 THE WITNESS: I do.

23 MR. BURKE: Would that be the basis of
24 your decision here to some degree?

25 THE WITNESS: Yes.

1 MR. BURKE: Thank you. That's all I
2 have.

3 CHAIRMAN VOLZ: Any follow-up questions
4 to our questions?

5 RE CROSS EXAMINATION BY MR. PALMER:

6 Q I do. Didn't people in the town ask you to say no.

7 A There were people who asked us to say -- and, I'm
8 sorry, Nate, no in what context?

9 Q To the whole pipeline project.

10 A There were --

11 Q We asked for a referendum, did you agree to that?

12 A A referendum in which context?

13 Q For the town making an actual vote, whether the town
14 people wanted this?

15 A I don't believe it ever came to the select board.
16 I apologize if I don't recollect, but...

17 Q Thank you.

18 CHAIRMAN VOLZ: Is that all you have?

19 MR. PALMER: Yes.

20 CHAIRMAN VOLZ: Anybody else?

21 Mr. Hurlburt?

22 CROSS EXAMINATION BY MR. HURLBURT:

23 Q I have a question. Regarding the select board's
24 position of the original proposed route along the Old Stage
25 Road. One of my responses here as far as what I got from

1 the selectmen is the selectmen has stated that it can't be
2 in the town right-of-way or road right-of-way. It was kind
3 of like the Hurlburts are going to have to deal with
4 Vermont Gas as far as going across the village property.

5 What has been the select board's position on the Old
6 Stage Road route versus the VELCO route?

7 A So, Mr. Hurlburt, just to, a first pass at that, and
8 it depends on where we're talking about the Old Stage route
9 and the VELCO route. We don't currently have a map of
10 that, but the VELCO routing close to where Old Stage Road
11 meets Monkton Road is actually quite problematic from the
12 basis of the 300-foot right-of-way. So we would have
13 problems following, you know, on the basis of our 300-foot
14 setback, we would have difficulty following the VELCO
15 right-of-way, certainly at that beginning part where Old
16 Stage Road takes off from Monkton Road.

17 Are you familiar with that part?

18 Q I don't realize there are any houses there as far
19 as --

20 A There are. There's the Grady, the Cramps. There's
21 the Footlott, the Zeno property.

22 Q Okay.

23 A That's okay. I just --

24 Q Say the new route is on the easterly side of the
25 VELCO right-of-way versus the westerly side, does that have

1 an impact on that part of it?

2 A It doesn't really. That being said, after you get
3 past that area -- well, actually, let me answer a different
4 question.

5 The town of Monkton is very concerned with late
6 changes to the route, you know, late being we've been in to
7 this process for quite sometime, where newly impinged upon
8 landowners who haven't been party to this process suddenly
9 are being asked for easements, suddenly are part of the
10 process.

11 Imagine, if you will, if the changes that happened
12 in January of 2013 were happening now. You can imagine
13 that some people would be quite upset because all of a
14 sudden the pipeline has changed. So I don't know that we
15 have a position on that per se, Mr. Hurlburt.

16 CHAIRMAN VOLZ: Anymore questions,
17 Mr. Hurlburt?

18 MR. HURLBURT: That's all. Thank you.

19 CHAIRMAN VOLZ? Any other follow-up to
20 our questions before we go to redirect?

21 Mr. Diamond, do you have any redirect?

22 MR. DIAMOND: Yes, just a few,
23 Mr. Chairman.

24 REDIRECT EXAMINATION BY MR. DIAMOND:

25 Q Mr. Pilcher, you in response to one of the Board's

1 questions said that the town would have no objection if the
2 pipeline was placed further away from the Palmers'
3 property.

4 When you made that statement were you talking about
5 a westward movement as opposed to back into the VELCO
6 corridor?

7 A I guess by clarifying my remarks, first, the
8 westward movement obviously is easy. It's away from the
9 Palmers' property. It increases the distance from the
10 Palmer residence. Anything that increases that distance
11 gets the Palmers further toward the edge of the PIR to our
12 setback requirement is all to the good.

13 Q And would you agree that if the line from the town's
14 perspective was put back into the VELCO corridor near Rotax
15 Road you would now have four property owners with
16 residences and/or wells within that 300-foot setback
17 parameter that was the goal for the town?

18 A There would be the potential for four residences to
19 be impacted.

20 Q You had mentioned as well just a moment ago, I
21 believe, under cross that one of the town's concerns is the
22 fact that there may be homeowners who have not been
23 participating in this process that could be impacted if
24 there was a route change; correct?

25 A That's true.

1 Q And would that also be implicated if the route near
2 Rotax Road was moved back into the VELCO right-of-way?

3 A Yes, they should at least two, really three
4 landowners that might be impacted that haven't been party
5 to this, these discussions.

6 MR. DIAMOND: No further questions.

7 MR. COEN: I want to ask you a follow-up
8 question.

9 THE WITNESS: Sure.

10 MR. COEN: We heard testimony here
11 earlier that VELCO is reserving part of that
12 right-of-way for its own purposes to maybe
13 build another line, a 115 or a 345 from New
14 Haven to Williston.

15 THE WITNESS: Yes.

16 MR. COEN: Okay. On the eastern side.
17 Would the town be objecting to that line
18 going forward because it's going to be so
19 close to those houses it built right up to
20 the right-of-way?

21 THE WITNESS: Yes. I mean, you know,
22 yeah. I mean, we would, we would -- and
23 there's different levels of objecting, of
24 course.

25 MR. COEN: So the town doesn't have a

1 position on the fact that people might have
2 built their houses or, say, people came to
3 the nuisance and built right up to the
4 right-of-way.

5 THE WITNESS: We don't have a position
6 on that, no.

7 MR. COEN: Thank you.

8 CHAIRMAN VOLZ: Any follow-up to that
9 question? Or any redirect on that question?
10 All right.

11 MR. BURKE: Mr. Pilcher, and
12 vicariously, I guess, to Mr. Diamond, I spent
13 a fair amount of my career as a municipal
14 attorney. And I know what you did today.
15 And I realized that you probably look forward
16 to many dental appointments more than you
17 looked forward to today. And thank you for
18 your candor.

19 THE WITNESS: Yeah, you're welcome.

20 CHAIRMAN VOLZ: If there are no more
21 questions for this witness, then you are
22 excused. Thank you, Mr. Pilcher. I think
23 what we would like to do now is take a short
24 break so we can fix the sound system and then
25 be able to have fun playing with the

1 microphones instead. So how about a
2 15-minute break. Come back about five after.

3 (Recess taken)

4 CHAIRMAN VOLZ: We are back from our
5 break. Is this microphone working? We're up
6 to our next witness, Mr. Heintz. So I guess
7 if you leave them on. We definitely want
8 them on even if it does make that noise.
9 Thanks.

10 MS. HAYDEN: Has the witness been sworn
11 in?

12 MR. COEN: He has not.

13 JOHN HEINTZ, called as a witness, and having
14 been first duly sworn by a Notary Public, was
 examined and testified as follows:

15 DIRECT EXAMINATION BY MS. HAYDEN:

16 Q Mr. Heintz, can you please state your occupation?

17 A I'm the president of International Engineering and
18 Development Corporation. And I've been retained by Clough
19 Harbour and Associates, or CHA, to manage the design and
20 construction of the Addison Natural Gas Project.

21 Q Do you have in front of you a document titled
22 Prefiled Testimony of John Heintz dated December 20, 2012,
23 consisting of 37 pages together with a cover page and
24 index?

25 A Yes.

1 Q Was this document prepared by you or under your
2 direct supervision?

3 A Yes.

4 Q Is it true and accurate to the best of your
5 knowledge and belief?

6 A Yes.

7 Q Are there any corrections you need to make to this
8 testimony?

9 A Yes.

10 Q Can you please --

11 A My initial testimony in exhibits filed last December
12 addressed a project design cost and schedule as of December
13 20th, 2012. The initial project design plans are set forth
14 in my 12/20/2012 Exhibits JH-2 through JH-10. The initial
15 cost estimate is the 12/20/12 Exhibit JH-11.

16 Subsequently, Vermont Gas modified the location of
17 the pipeline with reroutes in several locations. My
18 February 28th, 2013, supplemental testimony and exhibits
19 reflect the modified project routes.

20 As we continued to work with landowners and other
21 stakeholders through the year, we updated the plans with
22 additional refinements which are described in my June 28,
23 2013, testimony and exhibits.

24 The June 28th, 2013, project design plans, Exhibits
25 JH-2 through JH-10, reflect and incorporate both February

1 reroutes and the refinements to the design that I described
2 in my June 28th testimony.

3 As such they supersede and replace the February
4 design plans which are no longer offering as the final
5 design or to include as exhibits.

6 A And as I understand it, for the record, the
7 Petitioner will be offering into the record the original
8 route as proposed so that the Board has the evidence it
9 needs to compare the various alternatives that are before
10 it.

11 Thank you for that clarification, but are there any
12 corrections to the testimony that you filed in December
13 that you need to make this Board aware of?

14 A No.

15 Q And do you also have with you Exhibit Petitioner
16 JH-1 through JH-16 as filed on December 20, 2012?

17 A Yes.

18 Q And with the qualifications that you just provided
19 are they true and accurate as they reflect the project
20 proposed on December 20, 2012?

21 A Yes.

22 Q Thank you. And do you have in front of you the
23 February 28, 2013, supplemental prefiled testimony of John
24 Heintz consisting of two, I'm sorry, 43 pages together with
25 a cover page and an index?

1 A Yes.

2 Q This document was prepared by you or under your
3 direct supervision?

4 A Yes.

5 Q Is it true and accurate to the best of your
6 knowledge and belief?

7 A Yes.

8 Q And for the record, the Petitioner will not be
9 offering any of the exhibits with the February reroute
10 filing other than Exhibit 11 which is the updated cost
11 estimate for the reason that Mr. Heintz just described
12 which is that the February alignment is incorporated into
13 and reflected in the June 28th filing materials which
14 include some additional modifications.

15 Mr. Heintz, Exhibit 11 to your February 28, 2013,
16 testimony, was that prepared by you or under your direct
17 supervision?

18 A Yes.

19 Q Are there any corrections or clarifications that you
20 may need to make today with respect to that cost estimate
21 update?

22 A Yeah. There is one exception. Since February
23 Vermont Gas has agreed to additional minimization measures
24 including several sections of additional horizontal
25 directional drill or HDD. And these were as part of our

1 negotiations, or Vermont Gas's negotiations, with ANR.

2 While I have an order of magnitude cost estimate for
3 the changes that we have adopted as part of the MOU, I
4 don't have an exact cost at this time. But the order of
5 magnitude for those changes is roughly one million dollars.

6 Q Thank you. And then do you also have in front of
7 you the June 28th, 2013, Supplemental and Rebuttal
8 Testimony of John Heintz consisting of 22 pages together
9 with a cover page and index?

10 A Yes.

11 Q Was this document prepared by you or under your
12 direct supervision?

13 A Yes.

14 Q Is it true and accurate to the best of your
15 knowledge and belief?

16 A Yes.

17 Q Are there any corrections to this document?

18 A Not modifying my original December 2012 Exhibit, 61
19 and 62, which are photographs of the gate station main line
20 valve, but in the original Exhibits 12 and 13, the schedule
21 and construction process diagram had not been modified.
22 The other are modified as per previously discussed.

23 Q Okay. Thank you. That's helpful.

24 Do you also have with you Exhibit Petitioner Supp.
25 H-2 through JH-18 as they are listed in the exhibit list to

1 your prefiled testimony dated June 28th, 2013?

2 A Jess.

3 Q And were those directly prepared -- were those
4 prepared directly by you or under your supervision?

5 A Yes.

6 Q And are they true and accurate to the best of your
7 knowledge and belief?

8 A Yes.

9 Q Were there any revisions made with respect to
10 Exhibit Petitioner JH-17 date of blasting plan?

11 A No.

12 Q To refresh your memory was there a percholorate
13 listed in --

14 A Oh, yes.

15 Q -- one of the MSDS --

16 A Yes.

17 Q -- sheet?

18 A There was an MSDS sheet that was replaced in the
19 blasting plan. It was inadvertently included in the
20 blasting plan. We have made a commitment not to use any
21 percholorates on any of the blasting activities for the
22 job.

23 Q Just for clarification that, can you explain to the
24 board what an MSDS sheet, what that acronym stands for?

25 A Material safety data sheet. And it describes the

1 chemical components of a particular substance that's used
2 on a project. And the health or safety effects associated
3 with those.

4 Q As clarification for the Board, while a replacement
5 was provided in discovery the Petitioner has pulled that
6 particular MSDS sheet. There are others that are attached
7 to the blasting plan as examples. There are approximately
8 nine pages that we removed for that particular MSDS sheet.

9 With, I believe I asked you with that correction, if
10 these documents are true and accurate to the best of your
11 knowledge and belief?

12 A Yes.

13 Q I move the admission of the direct prefiled
14 testimony of John Heintz together with the exhibits
15 referenced and attached to his December 20, 2012, testimony
16 together with the rebuttal testimony and supplemental
17 testimony of John Heintz dated February 28, 2012, together
18 with his February 8, 2012, Exhibit 11, which is a project
19 cost update. As well as the prefiled testimony and
20 exhibits accompanying Mr. Heintz's June 28, 2013, testimony
21 which include JH-2 through 5, JH-7 through 10, JH-14
22 through 18. And I believe Mr. Heintz has already explained
23 some of the photographs, for example, JH-6 were filed in
24 the initial filing and have not been modified.

25 CHAIRMAN VOLZ: Okay. I just want to

1 clarify one thing. This supplemental
2 testimony was filed February 20th, 2013.

3 MS. HAYDEN: Did I say 2012.

4 CHAIRMAN VOLZ: Yes, I think you did.

5 MS. HAYDEN: Thank you.

6 CHAIRMAN VOLZ: With that clarification,
7 any objections to admitting this testimony
8 and these exhibits?

9 Hearing none, they are admitted.

10 Mr. Heintz, can you bring the microphone
11 closer to when you are testifying.

12 THE WITNESS: Sure.

13 CHAIRMAN VOLZ: Thanks.

14 MS. HAYDEN: I just have one short
15 surrebuttal question for Mr. Heintz and that
16 relates to Mr. Berger's testimony.

17 BY MS. HAYDEN:

18 Q Mr. Heintz, you were here when Mr. Berger testified
19 a little earlier today?

20 A Yes.

21 Q Mr. Berger told the Board it was his understanding
22 Vermont Gas had agreed to the conditions outlined in his
23 Rebuttal Prefiled Testimony regarding additional safety
24 measures. And I'm referring to the first thirteen pages of
25 his testimony. Do you have that in mind?

1 A Yes.

2 Q And were you involved in the discussions with
3 Mr. Berger regarding the items that he addresses in his
4 rebuttal testimony?

5 A I was.

6 Q And is his representation that he has made earlier
7 to the Board accurate that Vermont Gas has agreed to those
8 conditions?

9 A It is accurate.

10 Q Thank you. I have nothing further.

11 CHAIRMAN VOLZ: Okay. My understanding
12 is that we have some cross examination for
13 this witness.

14 Ms. Dillon, did you have cross
15 examination?

16 MS. DILLON: I did not.

17 CHAIRMAN VOLZ: Okay. Mr. Diamond?

18 MR. DIAMOND: No, at this time. Thank
19 you.

20 CHAIRMAN VOLZ: Ms. Porter?

21 MS. PORTER: I don't think we had
22 reserved any time.

23 CHAIRMAN VOLZ: I have you down for five
24 minutes.

25 MS. PORTER: Oh.

1 CHAIRMAN VOLZ: But you don't have to
2 use it if you don't want to.

3 MS. PORTER: I do, I do have one
4 question for Mr. Heintz based on what
5 Ms. Hayden asked.

6 CHAIRMAN VOLZ: Oh, I skipped over
7 Mr. Palmer. Do you have questions?

8 MR. PALMER: Yes, I have a couple.

9 CHAIRMAN VOLZ: Why don't you go ahead.

10 CROSS EXAMINATION BY MR. PALMER:

11 Q So it's my understanding you are the licensed
12 engineer --

13 CHAIRMAN VOLZ: Use the microphone,
14 please. Pull that closer. We think we have
15 it working now.

16 BY MR. PALMER:

17 Q It's my understanding you are the licensed engineer
18 that does all the nitty-gritty; correct?

19 A That's not correct. I am the project manager.

20 Q I thought you were the one that made the actual
21 design and drawings?

22 A My role on the project is to manage a team of
23 professionals. And I am responsible for managing a team
24 that's doing survey, right-of-way, design, construction.
25 So my scope is a little broader. And we have a licensed

1 professional engineer as part of our design team.

2 CHAIRMAN VOLZ: Please pull the mic

3 closer because you are hard to hear.

4 Q I have an engineering question. As far as from an
5 engineering standpoint isn't it easier to design a pipe
6 that's a relatively straight line versus one with multiple
7 turns in it?

8 A I wouldn't say that it's any easier to design. It's
9 easier to construct a straight line, but the design is --
10 to design a bend in a pipe is not difficult.

11 Q Constructability of a straight line.

12 I am still confused on a couple of your details. I
13 read in the Addison Indy it refers to transmission lines
14 being a small pipe five feet down. And generally you have
15 been telling me twelve-inch pipe three, four feet down. So
16 five feet down or will it be three foot down or where?

17 A The pipe is designed -- the trench, this is going to
18 be where the confusion comes from. Is the trench that's
19 dug is approximately five to five and a half feet deep.
20 The pipe itself is twelve inches. And the pipe is buried
21 with three to four feet of cover. So in some areas the
22 pipe will be down in a trench that's about six-foot deep
23 with some material underneath, and then four feet of cover
24 on top. Other areas will have three-foot of cover.

25 MR. COEN: Excuse me, Mr. Palmer. What

1 if it was directionally drilled? How deep
2 would it be then?

3 THE WITNESS: Yeah. Directional drill,
4 the depth of pipe would vary. Typically you
5 design it with a couple different parameters.
6 One is you want to maintain a certain
7 Distance below the ground as a minimum or a
8 lowest point.

9 MR. COEN: What is the minimum?

10 THE WITNESS: The minimum for, say,
11 going under a stream. We like to have at
12 least 15 to 20 feet between the bottom of the
13 stream and the HDD itself.

14 MR. COEN: What if it wasn't under a
15 stream and through a piece of property?

16 THE WITNESS: Through piece of property
17 we would want to be down probably ten to
18 fifteen feet at minimum.

19 MR. COEN: Thank you. Pardon me.

20 BY MR. PALMER:

21 Q So is twelve-inch pipeline, is this considered a
22 small pipeline?

23 A In the world of transmission lines, this is a small
24 pipeline.

25 Q To your average person in Vermont?

1 A I can't speak to the average person in Vermont.

2 Q I guess I will. It's big.

3 In the last day or so there has been some discussion
4 of possibly doing a horizontal directional boring on our
5 property.

6 Do you have any idea where the drill path will be?

7 A Right now what's been discussed over the past few
8 days, past week would, be shifting the line approximately
9 40 feet further away from your house closer to the line for
10 the conservation easement that's on your property. So that
11 we would maintain a certain buffer from the conservation
12 easement line, but it would essentially follow the same
13 path as currently proposed. Just shift it about 40 feet
14 over.

15 Q So that doesn't really answer. The drill path would
16 be on my property or would that be on the neighbor's
17 property?

18 A No, no. It's still on your property just 40 feet
19 shift.

20 Q As far as the drill path where you're horizontal?

21 A Drill pad, I'm sorry. I thought you said drill
22 path. The pad, I haven't -- we haven't designed the drill
23 yet. But looking, thinking about your property, I think
24 that there is, I think it would be likely that the drill
25 pad would be located on your property towards the back of

1 your property. But, again, that could be adjusted based on
2 the final design.

3 Q And how big of an area would we be talking about
4 here for that pad area?

5 A Roughly a hundred by 70.

6 Q Now if you horizontally drill do you still have to
7 remove all the vegetation?

8 A No.

9 Q So the vegetation can stay?

10 A There would be no disturbance to the surface,
11 underneath the pipe or above the pipe --

12 Q So --

13 A -- where the drill path is.

14 Q All the vegetation would be able to stay?

15 A That's correct.

16 Q So you are saying the horizontal directional
17 drilling would be outside of the WRP not inside the WRP?

18 A That's correct. That's currently what's being
19 discussed.

20 Q So that still would not give me a 300-foot setback
21 which is what everybody feels, I've been hearing you have.

22 A It would give you approximately 165-foot setback.

23 Q But not 300.

24 A No.

25 Q In a lot of things I have been reading you refer to

1 doing things to the degree feasible. Who would determine
2 that degree?

3 A Vermont Gas.

4 Q So if I don't feel comfortable with the degree
5 feasible, what is my recourse? Vague term, you know, I'm
6 just wondering how you work that out.

7 A I think this is probably one of your recourses, what
8 you are doing right now.

9 Q I don't think I'll get to come back here though if
10 you are actually drilling on my land.

11 A Oh.

12 Q So I'm just wondering what's the nitty-gritty on
13 that?

14 A If we're actually drilling on your land then we
15 would have reached an agreement with you to do that.

16 Q Just curious the process is actually going on if it
17 doesn't seem comfortable to me, what is my recourse?

18 CHAIRMAN VOLZ: Wait a second.

19 Mr. Palmer, if we were to grant a Certificate
20 of Certificate of Public Good that would
21 allow this to go across your property then
22 Vermont Gas Systems would have to construct
23 that consistent with the Certificate of
24 Public Good.

25 And if you weren't in agreement with

1 them at that point they would have to go
2 through condemnation obviously and abide by
3 whatever the condemnation orders are.

4 And if you had a problem with the way
5 they were constructing it and not consistent
6 with the Certificate of Public Good that they
7 got, you would come and complain to us about
8 that. You can file a complaint with us about
9 that.

10 MR. PALMER: No immediate recourse
11 though.

12 CHAIRMAN VOLZ: I don't know what you
13 mean by immediate. You would see them out
14 there doing it and you thought they were in
15 violation, you would make a filing with us
16 and we would take it up.

17 It's possible, if you need the criteria,
18 it's possible to get what's called a
19 temporary restraining order which could be an
20 immediate cessation of work until the dispute
21 is resolved. But you would have to meet
22 certain criteria that are laid out in our
23 rules.

24 BY MR. PALMER:

25 Q So in response to our first round of discovery, you

1 had a question VGS 1-15 where we request you provided
2 details diagrams as to how you are going to prevent
3 compaction of our soil. And you described methods of
4 construction. You refer to your original testimony and
5 attachment of JH-3. And the diagram show neat little piles
6 of top soil, spoil banks next to the excavator. You say
7 you will pile the top soil and keep it separate so that it
8 goes back in sequence where it goes out through
9 agricultural lands and wetlands?

10 A That's correct.

11 Q So all of those spoil banks and the top soil are
12 still within the 75-foot construction zone?

13 A That's correct.

14 Q And you strip back all of the top soil in 75-foot
15 zone?

16 A In agricultural areas, yes.

17 Q All right. I'm assuming you are considering ours
18 agricultural?

19 A Yes.

20 Q Now, would you say that the technique for installing
21 the pipe is the same technique that's being used up in
22 Georgia at this time?

23 A Are you referring to the St. Albans looping project?

24 Q I'm not sure exactly what you refer to it. I took a
25 road trip up through Georgia and came across the a road,

1 Polly Hubbard Road. Are you familiar with that area?

2 A Yes.

3 Q That's what I was referring to. Is that the same
4 type of technique?

5 A Yes, similar, uh-huh.

6 Q So what I saw there is what I would see in my
7 backyard?

8 A I'm not sure if the area that you are referencing is
9 an agricultural area.

10 Q Wide open fields, baled hay. Seemed like
11 agricultural land to me.

12 A Not all land that's looks like agricultural land is
13 defined for the purposes of a project like this is
14 agricultural. However, again I can't speak to what you
15 saw.

16 Q Well, what I saw was subsoil, top soil all mixed
17 together. Very disturbing to me to really want to be able
18 to farm that land whenever I need to. The thought of
19 picking out the rocks over the next four or five years
20 after you are done is a bit --

21 CHAIRMAN VOLZ: So I just want to
22 clarify, Mr. Heintz.

23 THE WITNESS: Yes.

24 CHAIRMAN VOLZ: If you, in fact, go on
25 to land that's designated as agricultural you

1 don't allow that kind of mixing to occur, you
2 keep the soil layer separate; is that
3 correct?

4 THE WITNESS: That's correct.

5 CHAIRMAN VOLZ: Thank you.

6 MR. COEN: Let me clarify as well. If
7 you were directional drilling, horizontal
8 drilling on Mr. Palmer's land, none of those
9 issues would occur; is that correct?

10 THE WITNESS: That is correct.

11 MR. BURKE: If you don't horizontally
12 drill, and instead you are constructing on
13 agricultural land, do you also -- does that
14 affect the depth that you set your pipe at?

15 THE WITNESS: If we're constructing on
16 agricultural land we maintain a four-foot
17 cover over the pipe.

18 MR. BURKE: And do you also take all
19 reasonable steps to be able to return the
20 soil mix including the top soil to the strata
21 it was in before?

22 THE WITNESS: Yes, we do. And we do
23 this through segregation.

24 BY MR. PALMER:

25 Q In my first round of discovery I had asked for

1 MSDS's on materials on your welding procedure and on any
2 products that you might use. And the Georgia site I saw a
3 coating put around after the welding. Could you provide me
4 with that MSDS, what that material is?

5 A We can, yes.

6 MR. BURKE: Let me just clarify. Is
7 that a data request? Are you asking for
8 that, Mr. Palmer?

9 MR. PALMER: I've already asked for it.

10 MR. BURKE: But you are asking for it
11 now again?

12 MR. PALMER: Yes, I am.

13 CHAIRMAN VOLZ: The company is willing
14 to provide that?

15 MR. COEN: The question is the company
16 will provide that.

17 THE WITNESS: Yes. And if I could
18 clarify. The material that Mr. Palmer
19 witnessed being applied on the Georgia
20 project may or may not be the product that we
21 use on this project. However, we will
22 provide alternatives that are being
23 considered for the joint coating.

24 MS. HAYDEN: So the clarification is
25 that, yes, the Petitioner will provide a

1 response to that data request as well as now
2 that Mr. Heintz just said he would offer to
3 provide, so we will provide other coatings
4 that are being considered for this project.

5 CHAIRMAN VOLZ: Okay. Thank you.

6 BY MR. PALMER:

7 Q We had asked some questions about blasting early on
8 in our discovery questions. And you did not have much
9 information to give us.

10 You have since filed a blasting claim. Still
11 doesn't say where you plan to blast.

12 When will that information be available?

13 A We won't be determining exactly where we're blasting
14 until we encounter rock that the contractor determines
15 needs to be blasted. So until the earth is actually
16 excavated, we don't know exactly where blasting is going to
17 take place.

18 Q You have rocks, corridor that you are planning on
19 coming down through north of our property --

20 A Yes.

21 Q -- someone has.

22 A Uh-huh.

23 Q There is quite a bit of ledge there which is
24 actually what holds all the water back in the marsh next to
25 us. So I'm assuming that would be blasted?

1 A I know that there is rock in the area around your
2 property. There are areas that may be blasted. The
3 contractor may also choose to remove that rock in a
4 different method.

5 Q And what will be done to make sure that you don't
6 affect the water level of the marsh because that's what
7 holds back all that water?

8 A One of the techniques that we use where we do open
9 cut or open trenching, traditional pipeline installation
10 methods, is we use something called trench breakers that
11 use benzinite. And what they are is they are essentially
12 dams that you create within the trench, made up of sandbags
13 and bentonite clay. These act to prevent the water from
14 migrating down the pipeline that you just installed which
15 becomes a preferential corridor for water to migrate unless
16 you put something in there to block it. So that's what we
17 have proposed for this project.

18 Q What's the life expectancy of that material staying
19 around the pipe? Will it deteriorate over time?

20 A We've had success with putting in trench breakers
21 and with bentonite. The bentonite doesn't really move.
22 Once it's in there, it's plugged up, it's part of this dam.
23 And we haven't had -- I've never experienced any situation
24 where we've had to go back and repair them in some way if
25 that's what you are alluding to.

1 Q I was just wondering what the life expectancy of it
2 is.

3 CHAIRMAN VOLZ: I had a question about
4 the ledge, following up on one of your
5 questions, Mr. Palmer, if I might interrupt
6 for a second.

7 If you do the drilling and you come
8 across ledge, what do you do then?

9 THE WITNESS: We drill through it.

10 CHAIRMAN VOLZ: Okay. Thanks. What
11 about the water seepage issue? Does that,
12 how do you deal with that?

13 THE WITNESS: When you drill through any
14 area, you use bentonite in a slurry form
15 which we call mud. The bentonite slurry acts
16 to remove cuttings as you are drilling
17 through an area. It lubricates and cools the
18 bit. And it also creates a filter cape.
19 It's the same bentonite I was referring to
20 earlier around the outside of the hole.

21 So once that's in place it acts as a
22 plug, the same way that the plug that we're
23 talking about in the trench.

24 CHAIRMAN VOLZ: Okay. It seals the
25 space between the pipe and the rock? Is that

1 what you are saying?

2 THE WITNESS: Yes.

3 CHAIRMAN VOLZ: Okay.

4 BY MR. PALMER:

5 Q So if this pipe goes through my property am I going
6 to need to call Dig Safe every time I go out and work in my
7 garden area?

8 A You are required to call under -- it's my
9 understanding and I'm not an expert on this, but it's my
10 understanding under Vermont law when you are excavating in
11 the vicinity of a pipeline you are supposed to notify Dig
12 Safe.

13 Q So that would be yes.

14 A Perhaps someone else could provide a better
15 clarification on the distances because I'm not aware of
16 that.

17 Q Thank you very much for answering my questions.

18 CHAIRMAN VOLZ: I'm sorry?

19 MR. PALMER: That's all.

20 CHAIRMAN VOLZ: Okay. Thank you.

21 Ms. Porter, do you have questions for
22 this witness?

23 MS. PORTER: I do.

24 CROSS EXAMINATION BY MS. PORTER:

25 Q Good morning, Mr. Heintz.

1 A Good morning.

2 Q I believe earlier Ms. Hayden asked you to confirm
3 that Vermont Gas had agreed to all of the safety requests
4 in Mr. Berger's rebuttal testimony up through page 13; is
5 that correct?

6 A Yes, that's correct.

7 Q Beyond page 13 there was an area of disagreement at
8 that time which we believe has been resolved. Could you
9 please confirm that Vermont Gas through clarifying what
10 Mr. Berger was requesting has agreed to the safety measure
11 regarding first responders and training that was previously
12 in dispute?

13 MS. HAYDEN: If I may, I apologize for
14 interrupting your questioning. But that
15 question would be better directed to
16 Mr. Teixeira who is in charge of ongoing
17 operation.

18 MS. PORTER: Okay.

19 BY MS. PORTER:

20 Q Just one other question. If you know with respect
21 to the other safety measures, if the Department requested
22 it would Vermont Gas be willing to accept those as
23 conditions in the CPG?

24 A Yes.

25 Q Thank you.

1 CHAIRMAN VOLZ: Great. Thanks. Do we
2 have questions?

3 MS. HAYDEN: Mr. Volz?

4 CHAIRMAN VOLZ: Yes.

5 Can you turn the mic so you are speaking
6 into it?

7 MS. HAYDEN: I'm sorry. We were asked
8 yesterday to prepare a potential alternative
9 for the Board to review regarding Old Stage
10 Road further south than what was discussed
11 earlier. And Mr. Heintz and Mr. Nelson have
12 developed one and have talked to Mr. Hurlburt
13 about this. I know Mr. Hurlburt is here
14 today. If it would be helpful to have
15 Mr. Heintz walk through what could be a
16 potentially alternative in that location
17 adjacent to his property?

18 MR. COEN: That was going to be part of
19 the Board's questions.

20 MS. HAYDEN: We did hand out that map.
21 And I apologize, I overlooked it when I did
22 the last surrebuttal. Just so you are aware
23 there is a blowup here as well as the map. I
24 don't need to walk Mr. Heintz through
25 that if the Board --

1 CHAIRMAN VOLZ: We want you to. Hang
2 on. Are there any objections to doing this?
3 Is that all right with you, Mr. Hurlburt?

4 MR. HURLBURT: Review it, yes.

5 CHAIRMAN VOLZ: Okay. Good. So we're
6 going to go ahead and do that now.

7 Ms. Hayden, you will walk him through
8 the presentation.

9 Mr. Diamond, do you have a question?

10 MR. DIAMOND: Are there any handouts of
11 this?

12 CHAIRMAN VOLZ: They were given out
13 earlier, no?

14 MS. HAYDEN: They were handed out
15 earlier, but we have more.

16 CHAIRMAN VOLZ: Petitioner surrebuttal
17 JH-1.

18 MS. HAYDEN: Yes. Mr. Hurlburt can't
19 see. We need to accommodate.

20 MS. ZAMOS: Mr. Hurlburt, come over
21 here. There are two seats here. Why don't
22 you come over here.

23 BY MS. HAYDEN:

24 Q Mr. Heintz?

25 A Yes.

1 Q I will wait until Mr. Hurlburt gets there.

2 It may be helpful, Mr. Heintz, if you just point to
3 the Board what the current proposed route is in this area.
4 And also to, I think, distinguish for the Board because
5 we're talking about Old Stage Road, but I believe in a
6 different location than was discussed earlier with
7 Mr. Pilcher when he was testifying. So if you could just
8 orient the Board to what you are speaking to, where we are
9 on the pipeline.

10 A Sure.

11 Q Thank you.

12 A So we're located at mile marker 28.9 on the
13 pipeline. And it's at the intersection of the VELCO
14 corridor and Old Stage Road. So north of this location we
15 are running along and in the VELCO corridor.

16 When we, in the proposed routing that's before the
17 board, where we intersect Old Stage Road we would then
18 continue along the east side of Old Stage Road until
19 reaching a point at approximately mile marker 29.7 where we
20 would cross the road. And then return to the VELCO
21 corridor.

22 The reason for this detour off the VELCO corridor
23 through this section is that on the west side of Old Stage,
24 down within the VELCO corridor there is, as you can see on
25 here, a meandering stream, a wetland, rock ledge, all

1 through this section. And on top of that it's very steep
2 slopes. The constructability is extremely challenging
3 through this section.

4 So we propose running along the roadway through
5 here. The pipeline is currently located outside of the
6 road right-of-way so that we don't, so we're not in
7 conflict with the MOU that's been executed with Monkton.
8 We are located outside of the road right-of-way along Old
9 Stage Road and it's currently located on Mr. Hurlburt's
10 property.

11 Over the past two weeks we've been in discussions
12 with VELCO and Mr. Hurlburt, and VELCO has come forward and
13 offered to allow the pipe to be on the east side of the
14 VELCO corridor in areas you might recall is an area that
15 they don't typically want us to be located in.

16 So with that accommodation we then proposed to
17 Mr. Hurlburt we would come across the road at approximately
18 mile marker 29.15, and continue again outside of the Old
19 Stage Road right-of-way in an area of 20 feet of permanent
20 easement paralleling the Old Stage Road along the west side
21 rather than the east side. That would take us off of
22 Mr. Hurlburt's property through this section. We would
23 then again reenter Mr. Hurlburt's property at 29.7 and
24 continue along the previously proposed routing.

25 We have not yet confirmed this routing with the

1 newly impacted landowners associated with this. So we
2 still have to reach out to them. But we feel like this may
3 be something that is feasible due to the fact that the
4 VELCO corridor abuts the highway right-of-way or the road
5 right-of-way through this section.

6 That's currently the proposal. So we're exploring
7 this alternative and it's our understanding that
8 Mr. Hurlburt is willing to proceed to look at this as an
9 option.

10 MR. YOUNG: Let me ask a practical
11 question. Right now you are still in the
12 exploratory phases on this option; correct?

13 THE WITNESS: Yes.

14 MR. YOUNG: This would affect some
15 additional landowners, one multiple?

16 THE WITNESS: Two additional.

17 MR. YOUNG: You have now notified them
18 of this possibility or have not?

19 THE WITNESS: We have not.

20 MR. YOUNG: In terms of the clearing, as
21 I recall from the bus trip this was an area
22 where you were going to have to -- it's
23 wooded for a stretch on the east side of Old
24 Stage Road about where you are originally
25 planning; correct?

1 THE WITNESS: That's correct.

2 MR. YOUNG: So you have similar terrain
3 or similar woods on the west side; correct?

4 THE WITNESS: Correct. This option
5 would still require clearing along the
6 road.

7 MR. YOUNG: Is there -- well, in terms
8 of clearing it actually looks like from a
9 quick look it's more clearing than before; is
10 that correct?

11 THE WITNESS: Correct.

12 MR. YOUNG: What's the advantage of
13 clearing in that location rather than where
14 originally proposed?

15 THE WITNESS: I would say there is no
16 advantage to the additional clearing. But
17 the advantage that one may take from this is
18 that we have essentially land along the road
19 here that because it's encumbered by an
20 existing easement with VELCO, doesn't have
21 the same value as the active farmland on the
22 other side. And what I'm told is active
23 sugarbush through this section.

24 MR. YOUNG: The primary difference you
25 have active sugarbush, active farmland

1 opposed to forested land that could be
2 suspect if VELCO does decide to build a
3 second line?

4 THE WITNESS: Correct.

5 MR. BURKE: Is part of your reasoning
6 that you make at least one of the landowners
7 somewhat happier?

8 THE WITNESS: Yes.

9 MR. YOUNG: And cost implications?

10 THE WITNESS: Construction cost would be
11 similar for either side.

12 MS. TIERNEY: I understood you to say
13 earlier that other landowners would be
14 impacted by the rerouting; is that correct?

15 THE WITNESS: Yes.

16 MS. TIERNEY: What is the nature of the
17 interest they hold in their land? Is it
18 materially different from Mr. Hurlburt's or
19 are they the same or what's the deal there?

20 THE WITNESS: I guess I would say that
21 it's different in that the land that we would
22 be on is encumbered by a VELCO easement.

23 MS. TIERNEY: Understood. I mean
24 aesthetically and appearance wise or use
25 wise. Are the -- does the Hurlburt land get

1 used for the same thing that these other
2 landowners use their land for? Does it look
3 the same?

4 THE WITNESS: The land that we would be
5 moving to is undeveloped, treed, forest land
6 that is currently not being used as far as I
7 can tell for anything.

8 MS. TIERNEY: And some of its uses are
9 likely restricted by existing right of ways;
10 is that correct?

11 THE WITNESS: Yes.

12 MR. BURKE: Is there sugarbush on that
13 side, do you know?

14 THE WITNESS: I do not know.

15 CHAIRMAN VOLZ: Ms. Hayden, you may
16 continue unless you are done.

17 MS. HAYDEN: I have nothing further.

18 CHAIRMAN VOLZ: Okay.

19 MS. HAYDEN: Unless the Board would like
20 me to elicit anymore clarification.

21 CHAIRMAN VOLZ: Our questions are
22 clarified now. Mr. Heintz was being --

23 MS. HAYDEN: I believe he was about to
24 be questioned by the Board and I forgot --

25 CHAIRMAN VOLZ: Testimony in general.

1 Now we can move to that and give everybody a
2 chance to ask more questions about what we
3 just heard and follow up on our questions.
4 So why don't you go ahead.

5 MR. YOUNG: Good morning, Mr. Heintz.

6 THE WITNESS: Good morning.

7 MR. YOUNG: I do want to follow up. I
8 remember what I wanted to ask you about which
9 is at this time this is not Vermont Gas's
10 proposal; correct?

11 THE WITNESS: That's correct.

12 MR. YOUNG: Do you have any estimate as
13 to when you may know whether you would
14 propose this change in routing?

15 THE WITNESS: I think we could have
16 something if this is what -- I don't think
17 Vermont Gas has made the decision yet. But
18 if we, when we make the decision, we could
19 have drawings put together in about a week.

20 MR. YOUNG: Right. And, sorry, I was
21 not trying to imply that you had made such a
22 decision in the question.

23 Okay. Let me start with blasting.
24 Everybody's favorite topic.

25 You have a blasting plan, Exhibit 17, in

1 your rebuttal testimony.

2 THE WITNESS: Correct.

3 MR. YOUNG: Your direct testimony, and I
4 apologize, I am going back to your original
5 direct testimony.

6 CHAIRMAN VOLZ: December 20th.

7 MR. YOUNG: December 20th. It's also in
8 your supplemental testimony.

9 Page 30 you discuss blasting operations
10 as being between seven and seven. Blasting
11 plan says nine to 4:30. Which is it?

12 THE WITNESS: The blasting plan that's
13 included in supplemental testimony is the
14 blasting plan that was agreed to as part of
15 the MOU with Monkton.

16 MR. YOUNG: So not -- so when your
17 testimony says blasting between seven and
18 seven, that should now be read nine to 4:30
19 is now the company's commitment to blasting?

20 THE WITNESS: Correct.

21 MR. YOUNG: Is it still, I didn't see it
22 laid out in the plan, but your testimony
23 seems to suggest if there were certain
24 situations where you were in process you
25 might continue past that time. Is that still

1 true?

2 THE WITNESS: Yes.

3 MR. YOUNG: Construction hours you are
4 still planning seven to seven?

5 THE WITNESS: Yes.

6 MR. YOUNG: In your experience has that
7 been typical of most of the Vermont Gas
8 pipeline expansion projects?

9 THE WITNESS: Yes.

10 MR. YOUNG: Noise impacts. You observe
11 in your testimony that gate stations will
12 have some noise.

13 Would Vermont Gas have an issue if the
14 Board adopted the same noise standards that
15 it applied to other projects of this electric
16 generation project substations?

17 THE WITNESS: I do not believe so. I
18 don't think they would have an issue with
19 that.

20 MR. YOUNG: Okay. Turning to your
21 supplemental testimony. You refer to a
22 change in location to the Williston gate
23 station; correct?

24 THE WITNESS: Correct.

25 MR. YOUNG: Do you know whether -- we've

1 had one other landowner to be here from that
2 area who expressed concern about the location
3 of the gate station.

4 Did the move address their concern do
5 you know?

6 THE WITNESS: I do not know.

7 If I could clarify my question regarding
8 hours of operation. Although seven to seven
9 for normal pipeline operations is typical in
10 what Vermont Gas has had on projects prior to
11 this one, this project has a large number, 15
12 horizontal directional drills. And
13 horizontal directional drilling sometimes
14 requires for the sake of completing the job
15 in the most effective way and minimizing
16 risks to continue going during some
17 operations which may require 24 hour
18 operation at some times. And I would just
19 like to put that into the record, that in
20 order to effectively do some of these drills
21 we may need to operate 24 hours a day.

22 MR. YOUNG: So if the Board had a
23 condition that said construction limited to
24 seven to seven which is often been included
25 in CPGs, that would be a problem -- could be

1 a problem for some of the directional drills?

2 THE WITNESS: That's correct.

3 MR. YOUNG: Otherwise that's acceptable?

4 THE WITNESS: Outside of the drilling,
5 it's acceptable.

6 MS. TIERNEY: May I ask a question real
7 quick?

8 Mr. Heintz, just a point of time
9 clarification. You were saying that you
10 might need to operate 24 hours a day for some
11 of the drilling, which I take to mean not all
12 of the drilling, you talked about horizontal
13 drilling.

14 Is there a way in which the Board can
15 describe that kind of drilling with
16 specificity if it wanted to carve out at an
17 area in the Certificate of Public Good that
18 would allow that 24 hour drilling, if need
19 be? How do we distinguish it from other
20 things that you could cease in order to
21 accommodate the normal hours of construction?

22 THE WITNESS: I think that the Board may
23 choose to describe it as typical trenching
24 techniques and associated activities. And
25 then separate out horizontal directional

1 drilling.

2 MS. TIERNEY: So what you are saying is
3 every time you do horizontal drilling you
4 would need the ability to drill 24 hours.

5 THE WITNESS: Yes. And then I'm not
6 saying that every time we would, but there
7 may be instances at any of those drills that
8 may require 24-hour a day operation.

9 MR. BURKE: How loud is that operation?
10 If you were standing, you know, 200 feet away
11 from it, 300 feet away from it. Is it a
12 dramatic noise?

13 THE WITNESS: It would be similar to,
14 say, a tractor operating in the field. The
15 noise from a typical agricultural piece of
16 equipment.

17 MR. BURKE: Thank you.

18 MR. COEN: You know, I think in a recent
19 CPG that I remember, it may have been the
20 St. Albans looping, we did not allow seven to
21 seven operation near houses. So, you know, I
22 don't want you to assume seven to seven is a
23 standard this Board uses.

24 THE WITNESS: Okay.

25 MR. YOUNG: Let me ask you specifically

1 about that. If we had a limitation that said
2 near houses construction was limited eight to
3 five, would that be problematic from your
4 standpoint? Would that be problematic?

5 THE WITNESS: I wouldn't use the term
6 problematic. What it would do is add cost to
7 the project.

8 If you look at this, if you look at a
9 pipeline project, when a pipeline contractor
10 arrives at a location, it's all about getting
11 the job done as quickly as possible. They
12 have expensive equipment and big crews and
13 when they are sitting idle, they still have
14 to pay for them. So you pay that price
15 regardless of whether they are working or
16 not.

17 MS. TIERNEY: Just because I don't do
18 this every day, can you give me a sense
19 incrementally of what kind of cost we're
20 talking about? How much more estimate cost
21 would there be if you had to cease activities
22 eight to five?

23 THE WITNESS: It really can be broken
24 down in straight percentage. So a
25 twelve-hour day versus an eight-hour day.

1 That incremental difference is the additional
2 cost. So on a percentage basis eight versus
3 twelve.

4 MS. TIERNEY: But you are not going to
5 go so far as to give me a dollar figure I can
6 relate to?

7 THE WITNESS: No.

8 MS. TIERNEY: Fair enough.

9 MR. BURKE: Let me ask you this. Are
10 there costs that are actually saved if you go
11 to a more normal day, does your contractor
12 charge you more for the job if, in fact, it's
13 clear that he is going to be having to pay
14 substantial amounts of overtime using
15 twelve-hour days?

16 THE WITNESS: No.

17 CHAIRMAN VOLZ: So in your eight to
18 twelve example you are saying essentially a
19 50 percent cost increase if you put a
20 percentage on that comparison? Or 33 and a
21 third percent cost increase?

22 THE WITNESS: 30 percent increase.

23 CHAIRMAN VOLZ: Okay.

24 MR. BURKE: I know what answer you gave
25 me, but I've to ask again. The contractor

1 then just treats all this additional overtime
2 which I suspect would be pretty dramatic,
3 it's just a cost of doing business and he
4 doesn't try to pass that along to you at all?

5 THE WITNESS: That's correct. Most of
6 the people that come in to do this kind of
7 work are based on a day rate.

8 MR. BURKE: I thought that was
9 illegal.

10 MR. YOUNG: You could sequence the
11 construction operation so that you were able
12 to, I mean, if the shorter time period only
13 applied near houses, is there something VGS
14 could do with sequencing to sort of minimize
15 it's time?

16 THE WITNESS: I think that is a -- I
17 think that's a better alternative from a cost
18 standpoint than applying that same rule for
19 the entire project.

20 However, when a contractor gives us a
21 bid for the job, and they look at a number of
22 areas where they are going to have to change
23 the way they are doing business, there is
24 still a cost associated with that. So I
25 think there is less cost in applying that,

1 those hours of operation for the entire
2 project, but there is still going to be a
3 cost.

4 MR. BURKE: There would be less cost
5 still if we didn't require any horizontal
6 drilling anywhere, wouldn't there?

7 THE WITNESS: Yes.

8 MR. YOUNG: I have no further questions.
9 Thank you.

10 CHAIRMAN VOLZ: Anybody else?

11 MR. BURKE: I have a bunch on blasting.

12 MR. COEN: My understanding is that you
13 are the individual to ask this question. We
14 had heard some discussion on our site visit
15 of the impact of a gas line on the
16 accreditation of an organic farm.

17 So do you have -- can you answer the
18 question as to whether or not installing a
19 pipeline would have that impact?

20 THE WITNESS: To date we have not found
21 anything that says that a pipeline on a
22 parcel of property would exclude it from
23 being organic farm status.

24 MR. COEN: What about the installation
25 process of the pipeline on that property,

1 disturbance of the soils and the contact the
2 soils might have to the product near the
3 pipeline?

4 THE WITNESS: To my knowledge, well,
5 during the construction phase of the project
6 there aren't going to be any materials that
7 would be located, or methane gas that's in
8 the pipeline, or anything outside that would
9 exclude that property from being organic.

10 MR. COEN: None of the sealants on the
11 pipe connections or anything like that would
12 be an issue?

13 THE WITNESS: Not to my knowledge, no.

14 MR. COEN: Thank you.

15 MR. BURKE: I want to return to blasting
16 for a minute.

17 THE WITNESS: Sure.

18 MR. BURKE: In your exhibit at least
19 what we see, is the material data entry
20 sheets from Maine Drilling and Blasting. Is
21 that the contractor you intend to use?

22 THE WITNESS: It's the likely contractor
23 for the project.

24 MR. BURKE: And whatever contractor you
25 use, whether it's Maine Drilling and Blasting

1 or someone else, you are going to do your due
2 diligence with regard to their track record
3 and how they've handled other projects?

4 THE WITNESS: Yes, sir.

5 MR. BURKE: Let me ask you this then.
6 I'm going to use Mr. Palmer just because we
7 seem to use Mr. Palmer a lot. There is,
8 let's assume for a second, that there will be
9 blasting associated with whatever route we
10 use through Mr. Palmer's property.

11 And your -- you indicate that you are
12 going to have a meeting with affected
13 landowners to talk about blasting; is that
14 true?

15 THE WITNESS: That's correct.

16 MR. BURKE: They won't know at the time
17 whether there will really be any blasting
18 because you haven't encountered anything yet;
19 correct?

20 THE WITNESS: Correct.

21 MR. BURKE: Then you indicate 24 hours
22 ahead of it if you have found an issue, that
23 there will be blasting and you warned them.

24 Am I with you so far?

25 THE WITNESS: Correct.

1 MR. BURKE: Then there is a blast. And
2 something happens. Who do you expect, and
3 Mr. Palmer, let's say, all of sudden he is
4 taken advantage of, and he has done his work,
5 he has had them take a look at his water
6 flow, et cetera, et cetera. And all of a
7 sudden he doesn't have water flow.

8 Who do you expect him to turn to as a
9 result of that? Do you expect his first turn
10 then is Vermont Gas, or do you expect, and we
11 are going to use them because that's who we
12 assume for the moment, Maine Drilling and
13 Blasting?

14 THE WITNESS: Vermont Gas.

15 MR. BURKE: Thank you.

16 CHAIRMAN VOLZ: All right. We've
17 finished our questioning. So now I would
18 like to go back and see if anybody else has
19 any follow-up either to our questions or to
20 the likes of rebuttal with the proposed
21 reroute on Stage Road.

22 Mr. Hurlburt.

23 MR. HURLBURT: I guess I will start.
24 Michael Hurlburt.

25 First of all, I would really like to

1 thank the Board for the site visit. It's
2 been pretty frustrating to try to get
3 somebody to look at this and get it back
4 where it ought to be in the VELCO corridor.
5 I feel that it was very instrumental by
6 taking it to the Board to really see what was
7 happening and Vermont Gas finally heard me.

8 CROSS EXAMINATION BY MR. HURLBURT:

9 Q As far as the new proposed route, basically that
10 area use to be pasture. Basically it's pine that's grown
11 up to pasture. On the other side of the road it is
12 sugarbush and it's mature growth, oak and maples. So the
13 impact, plus if and when VELCO decides to put a bigger line
14 in those trees it will be cut anyway. So as far as the
15 impact on that side of the road it's a much better route.

16 We had hoped that --

17 CHAIRMAN VOLZ: You need to ask a
18 question. Are you heading for a question?

19 MR. HURLBURT: Yes, I am.

20 CHAIRMAN VOLZ: Okay. All of this that
21 you are telling us now is not, it's like
22 testimony but it's not evidence because you
23 are not a witness right now.

24 MR. HURLBURT: Okay.

25 MS. PORTER: Chairman Volz, if I may.

1 The Department had discussions with
2 Mr. Hurlburt this morning. And he expressed
3 perhaps a willingness to testify. I just
4 wanted to make you aware of that if you would
5 like to deal with that at this time.

6 CHAIRMAN VOLZ: That he would like to
7 testify?

8 MS. PORTER: I will let you --

9 MS. TIERNEY: Meaning he would like to
10 file -- he'd like to supplementally testify?

11 MS. PORTER: Or maybe --

12 MS. TIERNEY: The Board could call him
13 right now as a witness.

14 MR. BURKE: I don't think the parties
15 are prepared.

16 CHAIRMAN VOLZ: When you are on the
17 stand on Wednesday you will be able to
18 explain a lot of this stuff the Department
19 will ask you questions about.

20 MR. HURLBURT: When am I on the stand
21 Wednesday?

22 MR. BURKE: You can ask questions now.

23 CHAIRMAN VOLZ: On Wednesday you are
24 scheduled to testify. But you are not going
25 to be here Wednesday.

1 MR. HURLBURT: I haven't been notified
2 of this yet.

3 CHAIRMAN VOLZ: You are on the schedule.

4 MS. HAYDEN: If I --

5 CHAIRMAN VOLZ: Maybe you are unaware
6 there is a witness schedule and you are on it
7 and are supposed to be here on Wednesday to
8 give your testimony.

9 MR. HURLBURT: I haven't received that
10 in the mail yet.

11 CHAIRMAN VOLZ: It was discussed at the
12 meeting on Monday. I think this schedule was
13 circulated on August 28th by mail.

14 MR. HURLBURT: I didn't get a copy of
15 it.

16 MS. HAYDEN: It was, and it was also
17 circulated by the clerk's office last week to
18 parties. This was the Petitioner's suggested
19 schedule which we filed on August 28 as we
20 were instructed to filing. And the clerk's
21 office circulated the schedule, this very
22 same schedule, last week to the parties.

23 CHAIRMAN VOLZ: By e-mail or --

24 MS. HAYDEN: I didn't, you know, I don't
25 remember. I assume she did mail as well.

1 She always does.

2 CHAIRMAN VOLZ: At any rate,
3 Mr. Hurlburt, you can talk to the Department
4 at the break about how this works. They may
5 be able to help you out a little bit. Give
6 you a copy of the schedule if you don't have
7 it.

8 MS. PORTER: Be glad to.

9 CHAIRMAN VOLZ: Go ahead and ask your
10 questions.

11 CROSS EXAMINATION BY MR. HURLBURT:

12 Q Mr. Heintz, would you agree the statement I
13 previously made regarding the route is correct and true?

14 A Could you repeat the statement?

15 Q The statement was that the new route along the
16 opposite side of the road was old pasture and grown up with
17 pines and that it also would be cleared if VELCO were to
18 expand their power line. And it would have, because it's
19 also in the VELCO corridor, it would have less impact on
20 the sugarbush and the farmland.

21 A I agree that if VELCO were to develop this parcel or
22 these parcels, with an expansion of their transmission
23 corridor, that the trees within it would be subject to
24 removal. I can agree to that.

25 As far as a judgment as to what side is better? I

1 will reserve that. I think there's a lot of factors, but I
2 do agree that if VELCO develops this land the trees could
3 be removed.

4 Q Also on the existing proposed route, not the new
5 one, where the trees are along the Old Stage Road, would
6 you agree that it is -- the contour of the land would be
7 more difficult to construct being ledge and the side hill
8 versus more level on the opposite of the road?

9 A I think that either option is constructible. But
10 given all of the circumstances that we have, I think that
11 the newly proposed route is a better route.

12 Q And regarding where the route crosses Little Otter
13 Creek, we've done some discussions on keeping that in a --
14 completely in the VELCO corridor versus keeping part of it
15 in the existing route.

16 And what is the obstacle regarding crossing the
17 lower side of the road versus where it is now, crossing
18 Little Otter Creek?

19 MR. COEN: Is that a different map?

20 A Yes, it's a different area. So what is your
21 question, Mr. Hurlburt?

22 Q My question is, why couldn't the route be entirely
23 in the VELCO corridor. And the information I received was
24 that because there was a problem crossing the creek there
25 on that side of the road. Could you clarify that a little

1 more? The procedure that you are using to cross the creek
2 was it blasting or core drilling? Explain that a little
3 more.

4 A Yeah. We plan on crossing using conventional
5 methods through that section. If we go to the other side
6 of the road we have steep embankments and exposed ledge on
7 both sides. So it's our opinion that where the pipe is
8 currently located is more constructible than going to the
9 other side.

10 Q But it could be done on -- it is done -- not that it
11 can't be done, it could be done on the other side of the
12 road, it could all stay in the right-of-way; is that true?

13 A What I often tell my clients is that we can
14 construct anything. It's just a function of the impacts
15 and costs. And we have to factor in a number of different
16 variables when we sight the line. And we do our best to
17 weigh all those variables and all of those impacts.

18 So given that weighted average and that risk
19 assessment that we've done, we've made a decision that the
20 location that it's in now is the best option between the
21 two.

22 Q Once again, could you describe the procedures for
23 blasting and going across its ledge on that side of the
24 creek too, about blasting within the creek and as far as
25 filling the hole in afterwards?

1 You said you are going to leave it and not put
2 concrete over it. I'm wondering what the effect of the
3 creek blasting is going to have on the creek. Could it
4 open a crack and the creek drain out? Tell me about that.

5 A Uh-huh. Usually in areas like this, depending on
6 the water flow and this is a pretty small flow through this
7 stream, we would dam and pump around. So we would
8 essentially divert the water flow for the period of time
9 that we can struck through this area.

10 And then if you look at it, it's no different than
11 any other area. Once the water is diverted, it's dry
12 through the areas that we would be trenching and blasting
13 if needed.

14 We would install the pipe with our minimum distances
15 over the top of the pipe. Which means that we would have
16 to have a minimum of five foot of cover over the pipe at
17 the bottom of the stream. And we would put the material
18 back that was removed. And then continue on.

19 Q Now as far as winter goes, does ice in the stream
20 have any affect on the pipe as far as moving it up and down
21 or anything like that?

22 A No, ice doesn't impact the pipe in the stream. And
23 in areas where we have frost the pipe actually moves with
24 the earth.

25 Q Another question regarding another, this other part

1 of our land, it crosses another tributary of Little Otter.
2 That brook is constantly eroding. It's about five or six
3 feet deep now. How deep under that brook would the
4 pipeline go to avoid being covered by future eroding?

5 A We've worked with ANR and their division of the
6 streams to look at these areas where we have erosion hazard
7 zones. We've designed a pipe through these areas so that
8 we're down far enough that we wouldn't have an impact on
9 our pipeline if the line were to meander or erode over
10 time. In this particular area we would have a minimum of
11 six foot of cover over the pipe at the bottom of the
12 stream.

13 Q So that pipe is going to have to be about nine feet
14 down is what you are saying. It's already six feet down or
15 ten feet down. You will have a deep trench on both sides
16 of the pipe?

17 A Or it will be directionally drilled.

18 Q Okay. Another issue. I have a question about the
19 depth of the pipeline. I did have some concerns about
20 putting in diversion ditches later on. I had discussed
21 with you about the possibility of putting a culvert over
22 where we want to put the ditches in at a certain point.

23 Could you tell me how deep that pipe would have to
24 be where those culverts go over the ditches? Would that
25 also be like five feet below that?

1 A I think what we discussed with you is that we would
2 work with you so that you could install drainage prior to
3 us arriving at the site or at the same time. We could work
4 with you to install drain tiles in the area where the
5 pipeline would be located so that you could tie into those
6 tiles at a later date.

7 And we often do this with farmers such as yourself
8 so that we don't inhibit your ability to install drainage
9 in the future. So we would be willing to work with you and
10 install pipe at the same time that we're putting our
11 pipeline in.

12 Q Another issue that I had was the town of Monkton is
13 getting some gas. When I heard about this I went and
14 acquired a gas furnace for my house. But I am not getting
15 any gas. And I've been talking about -- I'm only about a
16 mile from the New Haven substation.

17 And would it be feasible to put a distribution pipe
18 from the New Haven substation, say, up to Park Hurlburt
19 Road so rural communities could have access to gas?

20 A I would defer that request to Mr. Teixeira.

21 Q Another question. Part of the response to some of
22 my written questions were it didn't matter what time of
23 year it was as far as doing the ditching and putting the
24 pipe in because mats would be used to keep the soil from
25 being compacted. Some areas were pretty wet, like on a

1 flat, where maybe this year has been one or two months
2 where it hasn't had standing water on it.

3 Will you be doing it when it's the driest time of
4 the year like August?

5 A I can't guarantee the time that we would be
6 constructing in any given area. That's going to be left up
7 to the contractor. They're going to have a window in which
8 they have -- they are going to have a window in which they
9 can construct the pipe.

10 In areas that have water as you previously stated,
11 we use mats. And mats are effective at providing a method
12 for us to get through areas that are wet like wetlands
13 doing the minimum amount of disruption in those areas.

14 A So...

15 Q Wouldn't you agree it would be a minimum amount of
16 disruption as far as, you know, the water in the hole and
17 to do it when it was dry?

18 A Clearly there are challenges when there is water
19 present, but the ability for the contractor to install the
20 pipe may be slowed down in some respects because of water,
21 but they are able to install the pipe efficiently and
22 safely in areas that have standing water.

23 Q I think that's pretty much all I have at the moment.

24 CHAIRMAN VOLZ: Following around the
25 table, for follow-up questions. Or,

1 Ms. Dillon, did you have any?

2 MS. DILLON: I have a few questions
3 based upon the reroute restraint demonstrated
4 in Exhibit Petitioner Surrebuttal JH-1.

5 CROSS EXAMINATION BY MS. DILLON:

6 Q So just so I understand, Mr. Heintz. The proposal
7 for this exhibit advances a suggested reroute moving the
8 pipeline from the east side of Old Stage Road to the west
9 side of Old Stage Road for a period for a specific
10 distance, is that accurate?

11 A That's correct.

12 Q And to facilitate that alteration, you would need to
13 or Vermont Gas would need to clear some of the trees on the
14 west side of Old Stage Road.

15 A Correct.

16 Q Do you know what the width of the clearing would be?

17 A I don't have an accurate representation of the
18 amount of trees, so I don't know where the trees start and
19 where our pipeline is.

20 Q Okay.

21 A But we would clear, we would clear to the other side
22 of where that dotted line is.

23 Q Okay. Would that clearing be within the mesic maple
24 ash hickory oak forest?

25 A I defer that question to Mr. Chuck Nelson.

1 Q Nelson?

2 A Yes.

3 Q On the east side of Old Stage Road under the current
4 Vermont Gas proposed alignment, the pipeline, some of the
5 pipeline would be in an area of pasture land; is that
6 accurate?

7 A Yeah, pasture land and active farmland.

8 Q And just trying to read the pole marking references
9 down below so I can direct you.

10 At a particular point there's -- is that a deer
11 wintering area or the Class III wetland designation south
12 on the pipeline approximately above 189, pole reference
13 189?

14 CHAIRMAN VOLZ: Which exhibit are you
15 on?

16 MS. DILLON: I'm still on Exhibit
17 Petitioner Surrebuttal JH-1.

18 A It appears to be a deer wintering area, yes.

19 Q Is that the same deer wintering area that's on the
20 east side of Old Stage Road?

21 A Yes.

22 Q And this is proposed be trenched; is that accurate?

23 A That's correct.

24 Q I have no further questions.

25 CHAIRMAN VOLZ: Trying to figure out

1 when we are going to take a lunch break.

2 Who else has questions for this witness?

3 MR. DIAMOND: Mr. Chairman, if I may
4 suggest we take a lunch break. I may have an
5 extensive set of questions, I may not. So
6 this would be certainly an opportune moment.

7 CHAIRMAN VOLZ: So you have questions
8 for this witness you think?

9 MR. DIAMOND: Yes.

10 CHAIRMAN VOLZ: You have some, depending
11 on circumstances, you might have more.

12 Anybody else have questions for this
13 witness?

14 MR. PALMER: Just a couple quick ones.

15 CHAIRMAN VOLZ: Okay. Anybody else?

16 I think what what we'll do in light of
17 Mr. Diamond's representation about hopefully
18 to be more efficient if he gets to talk to
19 his clients, that's the way I took it anyway,
20 why don't we take our lunch break now then
21 we'll continue questioning this witness when
22 we come back.

23 Is that a problem for anybody?

24 MS. PORTER: Mr. Chairman, before we
25 break, upon reflection I'm not certain that I

1 requested the admission of Mr. Berger's
2 evidence into the record. And to the extent
3 I did not do so, I now request it.

4 CHAIRMAN VOLZ: So Mr. Berger's
5 testimony. Did he have exhibit?

6 MS. PORTER: He did not.

7 CHAIRMAN VOLZ: Any objection to
8 admitting Mr. Berger's testimony? In case we
9 didn't do it before, we're doing it again.

10 MS. PORTER: Thank you.

11 CHAIRMAN VOLZ: We'll come back at
12 quarter of two.

13 (Lunch recess)

14 CHAIRMAN VOLZ: Thank you. We're back
15 from lunch. I think when we left off
16 Mr. Diamond was going to ask questions of the
17 witness.

18 MR. DIAMOND: Yes.

19 CHAIRMAN VOLZ: Go ahead.

20 MR. COEN: Do you have a few or many?

21 MR. DIAMOND: I have more than a few,
22 but not many. How is that for a lawyer --

23 MR. COEN: I would say the witness is
24 unresponsive.

25 MR. BURKE: You must have been speaking

1 to Mr. Young over the lunch hour.

2 CROSS EXAMINATION BY MR. DIAMOND:

3 Q Mr. Heintz, good afternoon.

4 A Good afternoon.

5 Q I'm looking at Exhibit Petitioner's Surrebuttal
6 JH-1. Do you have that nearby?

7 A Yes, I do.

8 Q So I'm going to call this a supposal. Is that a
9 fair characterization?

10 A Yes, potential alternate.

11 Q This supposal if implemented would impact landowners
12 that are not here today; is that correct?

13 A That is correct.

14 Q And, in fact, there are four landowners that this
15 would impact.

16 A That is correct.

17 Q Are you familiar with those landowners?

18 A We, I am not personally familiar with those
19 landowners. However, we had made contact with some of
20 them.

21 Q And you were here earlier for Mr. Pilcher's
22 testimony or were you here yesterday?

23 A I was here yesterday and today, yes.

24 Q And in Mr. Pilcher's testimony he identified one of
25 the town concerns which was deviations from the planned

1 route by Vermont Gas would impact landowners who were not
2 on notice of those changes. Do you recall that?

3 A Yes, I do.

4 Q And would you agree that this supposal reflected in
5 Exhibit Petitioner's Surrebuttal JH-1 would impact that
6 concern.

7 A Yes, I do.

8 Q And would implicate that concern.

9 A Yes.

10 Q I assume you are also familiar with the Memorandum
11 of Understanding that was reached between Vermont Gas and
12 the town of Monkton?

13 A I am.

14 Q And would you agree that that, a material term of
15 that MOU requires Vermont Gas to actively advocate and take
16 those steps reasonably necessary to obtain approval of this
17 route, and this route being defined within that paragraph
18 that was previously described in your prefiled testimony.

19 A Yes.

20 Q And this is a deviation of that route.

21 A Yes.

22 Q And to the best of your knowledge Monkton has not
23 approved this deviation; isn't that correct?

24 A That is correct.

25 Q And would you also agree that it is Monkton's

1 position that in the absence of voluntary acceptance by the
2 newly impacted landowners, potentially impacted landowners,
3 along this supposal that the town would not support that
4 rerouting?

5 A That is my understanding.

6 Q And as a result isn't it correct that Vermont Gas is
7 not formally seeking to amend its CPG and seeking a reroute
8 that is depicted here in this rebuttal exhibit which is
9 entitled Exhibit Petitioner's Surrebuttal JH-1?

10 A That is correct.

11 Q It's merely a speculative what if hypothetical.

12 A A potential alternate.

13 Q That is just a hypothetical for everyone's
14 consideration.

15 A Correct.

16 Q And, in fact, if you were to submit it under these
17 conditions today, you would represent a material violation
18 of the MOU with Monkton.

19 A To the best of my understanding, yes.

20 Q No further questions.

21 CHAIRMAN VOLZ: Okay. Thank you.

22 I think, Mr. Palmer, you had questions.

23 MR. PALMER: Just a couple.

24 CROSS EXAMINATION BY MR. PALMER:

25 Q Curious as to how long does it take roughly to

1 install a mile of pipe?

2 A It varies widely depending on the terrain that you
3 are going down, the location of the pipe, construction
4 constraints. It's hard to give an estimate.

5 Q I heard roughly four weeks to go through Monkton.
6 Is that reasonable?

7 A I think that's a reasonable estimate for Monkton,
8 yes.

9 Q You mentioned that the pipe moves across.

10 A That's correct.

11 Q How does that work with the gate valve that's
12 stationary?

13 A There's --

14 Q Moving the stationary, gate valve stationary, there
15 is going to be some torque on the pipe?

16 A Yes, the pipe is designed to be able to move with
17 the frost underground, maintain the location of the valve
18 in its position, yes.

19 Q When you were talking about you change the hours of
20 your operation from like eight to five instead of a seven
21 to seven schedule, it will be like a 30 percent increase.
22 Is that on the overall project or is that just on the labor
23 factor?

24 A It's on the construction costs. So that would be
25 the cost minus the materials.

1 Q So basically the labor part of it, it's not the
2 whole project.

3 A That's correct. It's not a 30 percent increase over
4 the entire budget.

5 Q I love that can-do attitude that you had there
6 earlier. So from a constructability standpoint, all other
7 issues taken care of, following down the VELCO corridor the
8 Rotax Road is buildable?

9 A It is buildable at a cost.

10 Q Thank you. So did you state that when you do the
11 horizontal directional drilling you would not have to
12 remove vegetation on the top of that?

13 A We're talking about your parcel, yes?

14 Q Yes.

15 A For your parcel, although it's not designed yet,
16 it's my estimation based on the discussions that we've had
17 that you will not have to have any trees removed over the
18 top of the pipe in that area.

19 Q And would that still be a 50-foot right-of-way or
20 would it be a narrower right-of-way with directional?

21 A I would have to confer with my client on the width
22 of the right-of-way through there. But I believe there
23 could be accommodation made.

24 Q Have landowners, both myself and the Hurlburts, been
25 asking for those arrangements from the beginning?

1 A Yes.

2 Q Thank you.

3 CHAIRMAN VOLZ: Thank you.

4 MR. COEN: We have a clarification. In
5 terms of the cost for going from twelve hours
6 to eight-hour day, it's not just the labor
7 itself, it's leased equipment I assume.

8 THE WITNESS: Yeah, when I referred to
9 the costs it would be all costs associated
10 with construction minus materials.

11 CHAIRMAN VOLZ: So what percentage of
12 the total project cost would that represent?

13 THE WITNESS: I don't have that number,
14 I'm sorry.

15 MS. TIERNEY: Do you have just a figure
16 in mind for a representative typical day of
17 horizontal drilling in a rural state like
18 Vermont? I know that I'm asking you
19 something that you are not prepared to
20 answer, but you are somebody who works in
21 this field and I have to think you have done
22 any number of projects. It would be very
23 helpful to the Board in measuring increments
24 to have some realistic idea. If you can't
25 come up with it here, can you come up with it

1 in a record request?

2 CHAIRMAN VOLZ: I didn't hear the
3 question itself.

4 THE WITNESS: Maybe if you could restate
5 it.

6 MS. TIERNEY: Very simply the Board
7 needs a dollar estimate of what it would mean
8 for them to order certain hours of
9 construction, to put limitations on your
10 ability to drill on any given day. You said
11 earlier that one of the problems of doing
12 that --

13 CHAIRMAN VOLZ: It's not just drilling,
14 it's construction.

15 MS. TIERNEY: Indeed. We need to be
16 able to get our hands around what kind of
17 incremental cost we are talking about if the
18 Board would order that.

19 THE WITNESS: Maybe I should --

20 MS. TIERNEY: Dollars, not
21 percentages.

22 THE WITNESS: Maybe I could clarify my
23 answer.

24 There's two aspects to what we're
25 discussing. One is the traditional

1 construction method which is trenching. And
2 the 30 percent number that I threw out is for
3 that activity.

4 The 24 hour possibility on some of the
5 drills is related to risks, not dollars.

6 So the cost typically on this project,
7 how we've gone to bid for the drills, is a
8 lump sum cost. But when you shut down in the
9 middle of certain operations such as pulling
10 back or reaming the hole, after the hole has
11 been complete and you are pulling back the
12 pipe you don't want to stop doing that just
13 because it hits 5:00 or 7:00. You run the
14 risk at that point of getting your drill
15 string or your pipe stuck and that can lead
16 to complications to the project.

17 BY MS. TIERNEY: Which in and of
18 themselves are costly.

19 THE WITNESS: Would could mean
20 redrilling the hole. So in a case of a long
21 drill like let's say Monkton Swamp, it could
22 be an 800 thousand dollar added to the job.

23 MS. TIERNEY: That's helpful. Thank
24 you.

25 THE WITNESS: Okay.

1 MR. BURKE: In conjunction with that,
2 let me just ask. Do you know if your client
3 does things like makes accommodations,
4 hotel/motel, something for people who are
5 going to be near a project that's going to
6 drill all night long?

7 THE WITNESS: I have no knowledge of
8 them doing that in the past.

9 MR. BURKE: Thank you.

10 CHAIRMAN VOLZ: Is there any redirect?

11 MS. HAYDEN: I do have a couple of
12 questions.

13 CHAIRMAN VOLZ: Okay.

14 MR. BURKE: I have one more.

15 MS. HAYDEN: Sure.

16 MR. BURKE: Mr. Diamond asked you a
17 series of questions about the Monkton MOU and
18 whether it would be a violation. And you
19 pointed out several pieces of information in
20 that MOU.

21 You don't have an MOU with Mr. Burlson.
22 You have no agreement at all with
23 Mr. Burlson; is that true? Mr. Hurlburt, I'm
24 sorry.

25 THE WITNESS: No, we do not.

1 MR. BURKE: And as a result of that, as
2 a result of that you can't possibly violate
3 an agreement with Mr. Hurlburt when you don't
4 have any.

5 THE WITNESS: That's correct.

6 MR. BURKE: Now I have no further
7 questions.

8 CHAIRMAN VOLZ: Thanks. Any reflect?

9 MS. HAYDEN: I do.

10 REDIRECT EXAMINATION BY MS. HAYDEN:

11 Q So you were just asked some questions by the Board
12 and previously regarding the cost impacts associated with
13 limiting hours of construction.

14 Are there any other upward, any other potential
15 upward pressure, cost pressures that could cause the
16 project cost estimate to increase aside from just hours,
17 limitations on hours of construction?

18 A Over the past couple of weeks we have had the
19 opportunity to speak with both contractors and pipe
20 suppliers. And they have indicated to us, although we have
21 no formal bids yet and we won't be going to bid until
22 mid-October, we have been getting some feedback that prices
23 are rising. Both labor rates are rising and steel and
24 pipe, in particular, pricing is going up.

25 Q And when do you expect to get bid data back? You

1 said you were going out to bid mid to late October?

2 A Going out to bid in mid-october. We plan to get
3 bids back by the end of November.

4 And one other thing that contractors have been
5 telling us is that given the size and complexity of this
6 project, particularly the number of horizontal directional
7 drills on this job, that it is their opinion and, quite
8 frankly, we share that opinion, the construction needs to
9 start very early in 2014 in order to meet our delivery
10 date, our in service date of mid-November of 2014.

11 Q When you say very early, can you be more specific?

12 A It's really based on those discussions. Our
13 contractors have expressed a desire to get started as early
14 as the beginning of February with the horizontal
15 directional drill work.

16 And they also pointed out to us, which we agree, a
17 number of advantages to starting work in the winter months
18 when the ground is frozen, moving equipment on roads and so
19 forth, while the frost is still in the ground.

20 Q You were asked, I believe it was Mr. Young, asked a
21 question about noise and noise limitations and whether
22 Vermont Gas would agree to kind of a standard noise
23 limitation in the CPG.

24 Let me pose this. If the Board were to set a
25 limitation on noise at the gate stations that would limit

1 noise to 55 dBA daytime, and 45 dBA nighttime at the
2 nearest residence, in your opinion would the project
3 achieve that at each of the three gate stations?

4 A With the appropriate equipment and mitigation
5 measures I have achieved those kind of noise levels on
6 projects that I've done in the past.

7 Q I have nothing further.

8 CHAIRMAN VOLZ: Thank you.

9 Mr. Heintz is dismissed. Thank you.

10 CHAIRMAN VOLZ: I understand there has
11 been a change in the order of witnesses, that
12 we would like to hear from Mr. Jeffrey Wolfe
13 at this time; is that correct?

14 My understanding is that after Mr. Wolfe
15 would be Mr. Teixeira and then Mr. Nelson and
16 then Sylvia Jensen. We're also trying to get
17 Mr. Hurlburt in today, if possible.

18 MS. PORTER: Yes, sir.

19 UNIDENTIFIED SPEAKER: And Mr. Pico from
20 Agri-Mark.

21 CHAIRMAN VOLZ: Okay. We will try to do
22 that. We may change the order further in
23 order to work those two people in.

24 MR. KREIS: Mr. Chairman, this Exhibit
25 JH-1 we've all been talking about has not

1 been admitted into the record. I just want
2 to make sure.

3 MS. HAYDEN: Can we -- I'm going to
4 reserve on that for today.

5 CHAIRMAN VOLZ: You are not moving it at
6 this time?

7 MS. HAYDEN: I am not moving it at this
8 time.

9 I also noted that Mr. Carr was not
10 mentioned in the order of witnesses. Let me
11 see.

12 CHAIRMAN VOLZ: Yes, I'm sorry. I
13 skipped over him by mistake.

14 MR. CARR: Happens all the time.

15 CHAIRMAN VOLZ: I don't know about that,
16 but the first time I've done it.

17 MS. HAYDEN: If it would accommodate
18 Mr. Hurlburt, Mr. Teixeira can go after
19 Mr. Hurlburt.

20 CHAIRMAN VOLZ: Okay. All right. So we
21 are going to do Mr. Wolfe next.

22 JEFFREY WOLFE, called as a witness, and
23 having been first duly sworn by a Notary Public, was
24 examined and testified as follows:

24 MR. PALMER: Do I need to ask if his
25 evidence is entered into the record now?

1 CHAIRMAN VOLZ: It's my understanding
2 that the -- does anybody have any objection
3 to this witness's testimony and exhibits
4 going in for the record?

5 MS. DILLON: No objection.

6 CHAIRMAN VOLZ: Okay. Then they are
7 admitted.

8 MR. PALMER: Thank you.

9 CHAIRMAN VOLZ: The witness is available
10 for cross examination; correct? So,
11 Mr. Saudek, you had questions for him.

12 CROSS EXAMINATION BY MR. SAUDEK:

13 Q Afternoon, Mr. Wolfe.

14 A Good afternoon.

15 Q You have been in the renewable energy field for
16 quite a while; right? About how long?

17 A Either from 1973 or from 1996 depending on how you
18 count it. Quite a while.

19 Q And what, in your opinion, will be the effect of
20 this pipeline in meeting the goals as set out in the
21 comprehensive energy plan for the state?

22 A I believe it's a negative impact on meeting the
23 goals. Couple of different ways. One is I don't believe
24 that there is a net reduction in greenhouse gas to be
25 emitted in the state due to the installation of this

1 pipeline and use of natural gas.

2 Two is there will be a chilling effect on the
3 installation of renewable energy at least in the portion of
4 the state's served for, proposed in the future to be served
5 by the pipeline.

6 Q Why do you say that?

7 A I've done sales of houses of renewable energy
8 systems to homeowners as well as commercial sales. And
9 whenever a proposed much cheaper, much long-term cheaper
10 fuel source is proposed people stop making long-term
11 investments in renewable energy. Even if the promise of
12 that long-term cost effectiveness doesn't come through,
13 which it rarely has in my experience, people back off and
14 stop making renewable energy investments. It's actually a
15 tremendous way that the nonrenewable energy industry have
16 stalled renewable investment is by promising future cheap
17 energy which has never actually appeared for most of the
18 country.

19 Q You are somewhat critical in your prefiled testimony
20 of Mr. Carr's analysis of jobs. What is your position on
21 the economic effect on jobs for this pipeline?

22 A I respect Mr. Carr and his work in general. I just
23 think it was very incomplete in this case in that the
24 analysis and I could understand it and very little back up
25 was provided. As it can be understood it seemed to have no

1 accounting for future renewable energy jobs that would be
2 created if this pipeline was not installed. And it seems
3 like no kind of renewable energy jobs would be lost if the
4 pipeline is installed.

5 As the state moves toward a 90 percent renewable
6 energy infrastructure for 2050, that would require a very
7 large number of jobs to be created to install the
8 equipment. Renewable energy jobs seem to be vastly more
9 local than natural gas extraction jobs since we have no
10 natural gas extraction in Vermont. And so we're trading a
11 bunch of jobs in Canada or someplace else outside Vermont
12 and the U.S. for a lot of renewable energy jobs in Vermont
13 both production, design, sales and installation jobs.

14 Q In your opinion, will the 90 percent renewable
15 energy goal, or is it likely to be met if this pipeline is
16 built?

17 A No, no. Because if you look at the percent of
18 energy to be delivered in the service territory, which is
19 something I've asked the Board to look at, I don't believe
20 the service territory will hit the 90 percent goal of
21 renewable energy because of the provision of natural gas.
22 Once an infrastructure like this is installed there becomes
23 tremendous inertia and pressure to continue to use it
24 forever.

25 So this area of Vermont will not meet its 90 percent

1 goal required in other areas of Vermont to be over 90
2 percent to change the weighting average, if you would, and
3 that, of course, becomes much harder for Vermont to try to
4 carry Addison County forward. So I do not believe it's
5 possible for Vermont to meet its energy plan with this
6 pipeline.

7 Q You quoted in your prefiled testimony the excerpts
8 from the comprehensive energy plan you referred to
9 renewables except where nonrenewables are, what, needed or
10 appropriate or whatever it was called.

11 A Actually VGS who imported that sentence. I had to
12 reply to it.

13 Q VGS imported the sentence?

14 A VGS asked me to verify that sentence existed in the
15 energy plan in their response testimony it's called.

16 Q Yes. Do you think that is a -- do you think that
17 nonrenewable energy is appropriate in this case?

18 A There certainly will be nonrenewable energy used in
19 Vermont in the future. The plan makes provision for
20 ten percent of energy in Vermont to come from nonrenewable
21 resources. We have plenty of nonrenewable resources being
22 used in Vermont right now ad around the state. The plan
23 will try to reduce those.

24 They are spending a hundred million dollars on new
25 infrastructure to create a pipeline that gets used for 20

1 years, doesn't seem like a good investment to meet the
2 energy plan. If that money was put towards meeting an
3 energy plan it would be much further towards the goals.

4 Q Thank you. I have nothing further.

5 MR. YOUNG: Good afternoon, Mr. Wolfe.
6 Let me start, you were just discussing with
7 Mr. Saudek the fact that this may impair
8 renewable energy development; correct?

9 THE WITNESS: Correct.

10 MR. YOUNG: Which type of renewable
11 energy development in particular are you
12 thinking about? Are you thinking primarily
13 solar and wind resources?

14 THE WITNESS: Solar and wind. Solar is
15 my expertise directly. I've been involved in
16 a number of organizations. I've been
17 involved in other forms of renewable energy.
18 Clearly anything other than perhaps some kind
19 of farm methane would be impacted. And the
20 idea we are going to connect farms that will
21 be faraway from industrial corridors, this
22 pipeline strikes me as not being very
23 realistic.

24 So all forms of locally produced
25 renewable energy would be impacted by this,

1 yes.

2 MR. YOUNG: So you're thinking the types
3 of things that would typically be considered
4 in Vermont speed resources. I mean, that's
5 the type of thing you are looking at which is
6 solar, hydro, landfill methane?

7 THE WITNESS: That's the type of
8 resources being committed today.

9 MR. YOUNG: Right.

10 THE WITNESS: We are seeing more and
11 more resources going above the speed limit.
12 Solar has the ability to create five and ten
13 megawatt scale plants in a very strategic
14 manner. I think we'll see more of that scale
15 going in as well.

16 MR. YOUNG: Sorry. I used the term
17 speed as opposed to standard offer. The
18 speed program has the -- Okay. That gets to
19 where I really want to talk about. My
20 question is the following.

21 This pipeline is providing natural gas
22 service or is proposed to provide natural gas
23 services to industrial customers and
24 residential customers. A lot of that use is
25 going to be displaced, is likely to be --

1 excuse my inability to speak -- fuel oil or
2 propane, rather than electricity.

3 If it's displacing fuel oil and propane
4 how is that impairing renewable development?

5 THE WITNESS: We have alternatives now
6 to fuel, oil and propane. We have wood
7 chips. We have wood pellets. And just
8 recently been introduced new air source heat
9 pumps that have rather striking efficiencies
10 on them and are still early in the
11 development.

12 So we have air source heat pumps now
13 that are capable of upper or down to negative
14 20 degrees most of our wintertime, an
15 increasing percentage of time, I'm afraid.
16 We have pellets which are a great local
17 agricultural resource. Again, in it's
18 amazing development it will be absolutely
19 forwarded.

20 And we have the best wood ship industry
21 I think in the country, arguably, which all
22 replace those resources.

23 We also have a tremendous efficiency
24 resource which is only being lightly
25 deployed. And there are ways to achieve the

1 savings that are promulgated in some of the
2 testimony.

3 Efficiency without a decrease in cost
4 saving and using a lot less propane, a lot
5 less oil, rather than trying to displace the
6 oil.

7 MR. YOUNG: I understand. I am actually
8 trying to focus just in the narrow point
9 which is displacement. One of your concerns
10 is that it will adversely effect renewable
11 energy industry in Vermont. Since those
12 industries are primarily putting out
13 electricity, and this is not really -- houses
14 directly competing or with this would be
15 directly competing with those electrical uses
16 and that's the part I'm having trouble
17 seeing.

18 THE WITNESS: Sure. So directly to
19 that, as I said, air source heat pumps have
20 just been offered. I'm sure you have been
21 following the response to the VGS and the
22 Green Mountain Power Corporation. I think
23 they are over described factor of three
24 within days. So that technology is new.
25 Hasn't had a chance to be adopted yet.

1 Really a lot people been driven to heat,
2 that's a new option for Vermonsters.

3 CHAIRMAN VOLZ: What's going to generate
4 it? It's going to use electricity to produce
5 heat for hot water into heating homes?

6 THE WITNESS: Right.

7 CHAIRMAN VOLZ: Right now Vermont has
8 worked very little electric heat for heating,
9 for space heating in homes.

10 THE WITNESS: Correct.

11 CHAIRMAN VOLZ: So you are proposing
12 that -- you are suggesting, I guess, that we
13 would start utilizing heat pumps to heat our
14 homes with?

15 THE WITNESS: Correct.

16 CHAIRMAN VOLZ: And then what, what
17 source of fuel is going to be used to make
18 the electricity that will run those?

19 THE WITNESS: Renewable energy, wind,
20 solar.

21 CHAIRMAN VOLZ: When the sun is not
22 shining, the wind is not blowing?

23 THE WITNESS: Storage.

24 CHAIRMAN VOLZ: Okay.

25 THE WITNESS: There are storage

1 technologies which batteries, which you are
2 familiar with, and the matter of advancement
3 in batteries in the last five years is
4 staggering.

5 CHAIRMAN VOLZ: But it's not there yet
6 though.

7 THE WITNESS: Neither is the pipeline.

8 However, there are storage technologies
9 that are here such as hot water fuel. To
10 heat a house with hot water is being done
11 today. And so the idea of putting in air
12 source water heat pump powered by daytime
13 renewable energy or when the wind blows,
14 whenever it blows, renewable energy demand
15 control is extremely realistic and within our
16 technology framework.

17 MR. YOUNG: So as I hear that, what I'm
18 hearing that your concern is, it's sort of --
19 it's not going to directly displace solar and
20 wind today. What it's going to do is
21 potentially displace other technologies that
22 may use solar and wind as the electrical
23 resource to power them so --

24 THE WITNESS: It will also displace
25 solar hot water. One of the articles I filed

1 testimony discussed a couple of Sunnovations
2 and they look for markets where natural gas
3 is not. Natural gas absolutely destroys
4 their marketplace. So as a direct example of
5 direct thermal energy, that would be solar
6 hot water.

7 But regardless as the old saw goes
8 people actually want thermal energy. They
9 don't want electricity. They want a warm
10 home and they want lights on. It's not a
11 question how they do it. It's a question of
12 can they get it done.

13 MR. YOUNG: I have no further questions.
14 Thanks.

15 MR. BURKE: Actually, Mr. Young took
16 most of the area I wanted to cover, but I do
17 have a couple of areas that I would like to
18 move to.

19 One is I didn't see anything or any
20 concern in your testimony with regard to
21 income resources devoted to not by
22 individuals for thermal concerns. I didn't
23 see any real angst in your testimony for
24 people that are struggling low income, how
25 they are going to heat their homes and a

1 chance to heat them for less money.

2 Did I miss that or was it just not
3 there?

4 THE WITNESS: It absolutely was there.
5 I have a very real concern about people with
6 natural gas and a promise of long-term low
7 prices when the history of natural gas is
8 nothing but volatility and getting people
9 locked into a fuel source where they have no
10 option other than continue to pay future
11 pricing system.

12 MR. BURKE: That's a great segue into
13 the second area I wanted to cover.

14 What about options? Aren't all of us
15 better off with more options than with fewer?

16 THE WITNESS: If you are offering the
17 central gas pipeline to Vermont for free,
18 sure. A hundred million dollar investment?
19 I think we should consider other options we
20 can get for a hundred million dollars.

21 MR. BURKE: You mentioned 20 years in
22 your testimony earlier. Where did the 20
23 years come from? The 90 percent renewable
24 standard is 2050; right?

25 THE WITNESS: It is. I believe the

analysis in the submitted testimony is 20 years. And I actually wondered where that came from because VGS -- down the pipeline in 20 years.

MR. BURKE: Really as far as the recapture on the pipeline you would be looking more at 36 years.

THE WITNESS: Recapture of what?

MR. BURKE: Recapture the cost of the pipeline.

THE WITNESS: I don't know how long VGS is looking at to recapture the cost.

MR. BURKE: Thank you.

CHAIRMAN VOLZ: Any follow up to our questions?

MS. PORTER: I would like to.

CHAIRMAN VOLZ: Sure.

CROSS EXAMINATION BY MS. PORTER:

Q Good afternoon, Mr. Wolfe.

A Good afternoon.

Q Would you agree with me that the comprehensive energy plan has a series of competing goals, and in addition to meeting the renewable goal their goal such as affordability, reliability?

A Absolutely.

1 Q You made several references to other uses of the
2 \$100 million. So I think we probably all understood what
3 you would do with the money.

4 A I'm not sure you do because I haven't testified to
5 that.

6 Q Okay. I guess you would invest it in renewable
7 energy would be the obvious assumption that one would make,
8 but you are correct and I apologize if I've overstated
9 anything that you said or didn't say. But you talked about
10 the investment.

11 Do you have any thoughts as to the source of those
12 funds?

13 A The source of the funds right now are coming from
14 VGS ratepayers, I believe. And so it seems that those VGS
15 ratepayer funds are apparently considered to be available
16 for the public good which strikes me as an odd case, but
17 that's where we're at right now.

18 Q I think you misunderstood. I meant the source of
19 funds to do the project that you are proposing.

20 A So, as I said, there's a hundred million dollars
21 being collected, I believe, from VGS ratepayers.

22 CHAIRMAN VOLZ: I think you
23 misunderstand the proposal. The proposal, as
24 I understand it, is for Vermont Gas Systems
25 to investment the money. And eventually they

1 are allowed to collect their investment and
2 rates over time, but the initial investment
3 up front will be made by Vermont Gas Systems.
4 So I think that's where your question came
5 from.

6 MS. PORTER: Thank you, Chairman Volz.

7 THE WITNESS: Can you repeat your
8 question, please.

9 BY MS. PORTER:

10 Q It just seems to me your testimony suggests that
11 there is a one-hundred-million-dollar fund that's available
12 to spend in some way that's being proposed. And to my
13 knowledge the only way it's proposed currently before the
14 Board is this project under Section 248.

15 A I think there is a bunch of other proposals in the
16 state for spending money. They may not be, clearly not
17 other proposals to spend VGS's money, I assume it's VGS's
18 money. There is ratepayer money, I believe, being
19 collected right now to fund engineering. I think I'm
20 correct.

21 CHAIRMAN VOLZ: There is a fund that was
22 created from not giving the rate decrease, as
23 I understand this, in the past that's being
24 held to offset future rate increases that
25 might occur resulting from the investments

1 that will be made if we were to allow this
2 project to go forward.

3 Because you are right, the project
4 eventually would be paid for by ratepayers
5 over time, but the actual investment would be
6 made initially by the company. And then
7 those, the cost of that investment would be
8 put into rates and then collected over the
9 life of the assets.

10 THE WITNESS: So I think your question
11 is --

12 CHAIRMAN VOLZ: If the company doesn't,
13 in fact, go forward with this project that
14 money that was set aside will be go back to
15 ratepayers. It's not available to just spend
16 for anything that the Board might like to
17 spend it on.

18 THE WITNESS: I was using this as an
19 analogy rather than an absolute, yes.

20 There is certainly a lot of money in the
21 U.S. that is available -- being used for
22 renewable energy.

23 If that's your question.

24 BY MS. PORTER:

25 Q I was just trying to make it clear that this

1 particular funding source is committed, as Chairman Volz
2 just said, pursuant to a Board Order if it's not used for
3 that purpose it would be returned to ratepayers. It's
4 not --

5 A If a ratepayer has a pocketbook, and a ratepayer
6 only has so much money in the pocketbook, whether VGS takes
7 money out of the pocketbook or somebody else takes money
8 out of the pocketbook, or they decide to invest that money
9 in something for themselves, so one the money is taken out
10 of the pocketbook by VGS the money has been invested in
11 something else, it becomes lower because they only have a
12 finite pocketbook.

13 Q Okay. Do you have any empirical evidence to support
14 your assertion that within the state of Vermont expansion
15 of the natural gas pipeline system would have a chilling
16 effect on renewable energy products?

17 A Eighteen years experience selling renewable energy
18 systems, yes, the article by Sunnovations' CEO, yes, has
19 been submitted.

20 Q Thank you, Mr. Wolfe.

21 CHAIRMAN VOLZ: Ms. Levine?

22 MS. LEVINE: Yes, I have a couple
23 follow-up questions.

24 CROSS EXAMINATION BY MS. LEVINE:

25 Q Sandra Levine, Conservation Law Foundation.

1 Over the course of the lifetime of the proposed
2 project which is, do you understand, to be around 50 to a
3 hundred years?

4 A That seems to be what my plans run for, yes.

5 Q And in that time frame do you see an expansion of
6 electricity using renewable energy to meet power needs in
7 the state?

8 A Vast expansion, yes.

9 Q And the analysis has been presented by Vermont Gas
10 Systems providing a 20-year time frame.

11 How do you see that extending out to the later years
12 beyond the 20-year time frame?

13 A Because it's a fundamental disagree with the model
14 they present over the first 20 years, it's hard for me to
15 extend it out. The model is based upon linear projections
16 of very short recent history of gas pricing. It's not
17 based upon any historical evidence. It's not based upon
18 what I know as inside industry information. My firm was
19 funded by a \$14 million investment partnership that was
20 invested almost exclusively in natural gas. I had access
21 to many of their projections and inside of the industry as
22 well. And their projections for pricing were significantly
23 in excess of the projections I had in the 20-year time
24 frame.

25 There are a few scenarios that I can frankly imagine

1 where in 20 years we don't have a significant price in
2 carbon which has not been put in the models anywhere. And
3 so I only see a pipeline that carries extremely expensive,
4 extremely dangerous fuel to homeowners who can no longer
5 afford it.

6 Q Do you think it's reasonable to assume that all of
7 the gas from Vermont Gas Systems may be used to replace oil
8 and propane over the lifetime of the project?

9 A No.

10 Q And does that become less likely farther out in
11 time?

12 A Yes.

13 Q That's all I have. Thank you.

14 CHAIRMAN VOLZ: Any other follow-up to
15 our questions?

16 MS. HAYDEN: Yes.

17 CROSS EXAMINATION BY MS. HAYDEN:

18 Q Good afternoon, Mr. Wolfe.

19 A Good afternoon.

20 Q You were talking earlier about the potential for
21 five to ten megawatt solar projects to be built in Vermont?

22 A Correct.

23 Q Are you aware of any specific proposals?

24 A Yes, I'm aware of at least one I am personally
25 involved in.

1 Q Okay. It's true that we don't currently have
2 permitted five megawatt solar projects in Vermont; is that
3 true?

4 A The regulatory environment has been difficult.

5 Q Yes, and I've worked with a lot of developers in the
6 standard offer program and I don't know what the numbers
7 are, but there's probably six to eight two megawatt
8 projects that's --

9 A Well, the standard --

10 MR. SAUDEK: Objection. Objection.

11 CHAIRMAN VOLZ: What's the objection?

12 MR. SAUDEK: To the form of the
13 question. The lawyer is testifying.

14 CHAIRMAN VOLZ: Well, it's not testimony
15 what the lawyer says, it's just verbiage into
16 the record. You can't rely on it, yeah, ask
17 questions.

18 MS. HAYDEN: I was trying to ask a
19 question and the witness started answering
20 before I could complete the first part of my
21 question.

22 CHAIRMAN VOLZ: Okay.

23 BY MS. HAYDEN:

24 Q But currently we don't have any five or ten megawatt
25 projects that have been permitted and built in Vermont;

1 right?

2 A No, the regulatory framework does not allow for it.

3 Q And a five-megawatt project would probably require
4 about 50 to 75 acres, give or take?

5 A That is absolutely incorrect.

6 Q How many acres would you estimate a five --

7 A Fifteen to twenty.

8 Q Are you aware of the size of, in terms of acreage,
9 of most of the standard offer projects that have received
10 CPGs in the standard offer program in Vermont?

11 A Yes, I've built about a hundred megawatt projects.

12 THE REPORTER: I'm sorry. If you could
13 slow down and I can't quite understand you.

14 A I've been involved in about a hundred megawatts of
15 projects. I'm very aware of sizing of projects.

16 Q I asked about the standard offer two-megawatts
17 projects, what the average size is of those that have been
18 before the Public Service Board and have received CPGs.

19 Do you know the average acreage size of those
20 projects?

21 A I don't know. I have not followed the CPG. I do
22 know of one particular project job that my firm has been
23 involved in where the project was provided a CPG. And when
24 my firm got involved in it the land coverage of the was
25 shrunk by about two-thirds, I believe.

1 Q And you referred to using wood chips and wood
2 pellets as potential renewable resources rather than
3 natural gas. Do you recall that?

4 A I do.

5 Q Were you -- was the application that you were
6 thinking about when you made that testimony referring to
7 burning chips and pellets in wood stoves?

8 A Burning chips and pellets in wood stoves, yes.
9 Burning central boilers as we do in schools how.

10 Q Okay. So you weren't referring to larger commercial
11 biomass projects?

12 A No.

13 Q And I think the Department's counsel asked you if
14 you had any empirical evidence to support your statements
15 and you referred to your experience. I also didn't see any
16 empirical data that was provided with your testimony or
17 your exhibit.

18 Do you have empirical data that you haven't
19 presented to this Board that you were referring to when you
20 responded to DPS counsel?

21 A There was the article by Sunnovations --

22 Q Okay.

23 A -- which discusses where they go to market
24 particularly. It's difficult to provide empirical evidence
25 from 15 years of sales, direct sales, in the field selling

1 to people and find out why don't they want to buy, why a
2 burning decision. That's been my experience for 15
3 years.

4 It's also difficult to review an energy model when
5 none of the empirical evidence that is cited in the model
6 is up for discussion either. So I don't know the models
7 that were submitted by VGS and affiliates, what those
8 models are based on, any empirical data to back them up.

9 Q I have nothing further.

10 CHAIRMAN VOLZ: Thank you. I take it
11 we're done with follow-up to our questions?
12 Any redirect for this witness? Mr. Palmer?
13 Any other questions you would like to ask him
14 to clarify anything he may have said already?

15 MR. PALMER: I can't think of anything.
16 I don't know anything else Mr. Wolfe needs to
17 add to his testimony.

18 CHAIRMAN VOLZ: I think he would have
19 done that already in response to the
20 questions he's gotten. Okay. I think you
21 are excused. Thank you, Mr. Wolfe.

22 THE WITNESS: Thank you.

23 CHAIRMAN VOLZ: Which witness would the
24 parties propose we do next?

25 According to my list it was going to be

1 Mr. Teixeira, but then others said they want
2 to be sure we got Mr. Hand's witness in and
3 Mr. Hurlburt on today.

4 MS. HAYDEN: That's fine.

5 CHAIRMAN VOLZ: Okay. Mr. Hurlburt,
6 would you like to go now?

7 MR. HURLBURT: Yes.

8 CHAIRMAN VOLZ: Great.

9 MICHAEL HURLBURT, called as a witness, and
10 having been first duly sworn by a Notary Public, was
examined and testified as follows:

11 CHAIRMAN VOLZ: And, Mr. Hurlburt, you
12 prepare some prefiled testimony you filed in
13 this case; is that correct? Written
14 testimony that you sent --

15 MR. HURLBURT: That's correct.

16 CHAIRMAN VOLZ: There weren't any
17 exhibit with that testimony, it is just
18 written testimony.

19 MR. HURLBURT: Just written testimony.

20 CHAIRMAN VOLZ: Okay. Are there any
21 objections to admitting Mr. Hurlburt's
22 testimony? No objection, it will be
23 admitted.

24 MR. HURLBURT: Thank you.

25 CHAIRMAN VOLZ: Who is cross examining?

1 Mr. Diamond, do you have cross for this
2 witness.

3 MR. DIAMOND: No cross.

4 CHAIRMAN VOLZ: Anybody else have cross
5 examination?

6 I think we have some questions for him.

7 MR. YOUNG: I don't have anything
8 written down.

9 MR. BURKE: Mr. Hurlburt, now is the
10 chance to get across some of the points you
11 were trying to testify to before. So let's
12 go over a couple of things that might be
13 important to us here.

14 If this project moves to the other side
15 of the road is it your testimony that, in
16 fact, what VGS faces as far as tree loss is
17 primarily pioneer species and early growth as
18 opposed to mature growth on your side of the
19 road?

20 THE WITNESS: That's correct.

21 MR. BURKE: And why do you see that as
22 less intrusive overall for the grand scheme
23 of things? Why is that better?

24 THE WITNESS: As far as the trees go?

25 MR. BURKE: Yes.

1 THE WITNESS: Well, on our side of the
2 road there's oak and there's maple and
3 Shagbark hickory, home of the Indiana bat.
4 And the pine grows much faster to replace it
5 and the value of pine is much less.

6 MR. BURKE: In fact, is it true that one
7 of the reasons they call it pioneer species
8 is because it pioneers, it begins the growth
9 of a forest as it starts to mature.

10 THE WITNESS: It's usually the part of
11 the cycle of woods. It goes from pine into
12 hardwood.

13 MR. BURKE: So you're saying there is
14 less lost because it's not as valuable to
15 begin with, and, second of all, it's easier
16 to replace because that's what pioneer
17 species do?

18 THE WITNESS: Partially, but partially
19 because the chance of that corridor will be
20 cut anywhere if VELCO does come through
21 there.

22 MR. BURKE: That answers the concerns
23 that I have from your statement before.

24 MR. COEN: Mr. Hurlburt, is there
25 anything else you would like to add regarding

1 your concerns with the project along your
2 property?

3 THE WITNESS: Well, I'd just like to say
4 I am not in favor of the project, but if it
5 has to go then try to make the same things
6 the town of Monkton says, try to do the best
7 with what we've got.

8 MR. COEN: What is your position on the
9 proposal that Vermont Gas has made today
10 regarding the rerouting, that portion of the
11 project, obviously not completely off of your
12 property, but for a good portion of it on
13 Stage Road?

14 THE WITNESS: I'm very pleased to see
15 what they've done. It's much, much better
16 than it was. I mean, part of it is that road
17 is a corridor already. It's a no-build zone.
18 And our fields and, you know, they are in
19 agricultural, but some days they may have to
20 be developed. It would impact that option to
21 develop, if we had to do it versus the other
22 way you can't because it's an area you can't
23 develop at all other than the VELCO project.

24 MR. COEN: Do you have anything else you
25 would like to add to your testimony?

1 THE WITNESS: Basically that I want to
2 thank the Board and I would like to see the
3 whole thing, if it has to go through to go
4 through completely in the VELCO corridor in
5 the opposite of the road, AND not in our
6 fields at all. I believe that is doable.

7 I have some concerns about going across
8 the streams, the creeks. Sounds like they're
9 going to blast a hole and just put the
10 pipeline in and put some stone on it. I
11 think it would be better to put concrete
12 under it or something like that, make it more
13 like it originally was. But I think they are
14 willing to work with us. And depends if they
15 are going to pay us or not.

16 MR. BURKE: I have one last question for
17 you, if I could. And I know that's with
18 trepidation that I just say one more
19 question, but it's only going to be one area,
20 because I've got to do it in two pieces.

21 How long have you lived in Monkton?

22 THE WITNESS: I've lived there all my
23 life.

24 MR. BURKE: Not yet you haven't; right?

25 THE WITNESS: So far.

1 MR. BURKE: And when you entered into an
2 MOU by definition there's two parties to it.
3 Did the town of Monkton talk to you at all
4 before they entered into the MOU that they
5 entered with VGS?

6 THE WITNESS: The MOU was done behind
7 closed doors. They did it on their own. We
8 did go to the meetings. We saw a copy of it.
9 There was some opportunity to discuss at the
10 public hearings.

11 MR. BURKE: Did you make your views
12 known there?

13 THE WITNESS: I did.

14 MR. BURKE: Thank you.

15 CHAIRMAN VOLZ: Any follow-up questions
16 based on our questions? All right. Thank
17 you, Mr. Hurlburt. Appreciate you coming
18 today.

19 Mr. Hand, we can do your witness next?

20 MR. HAND: Thank you.

21 EDWARD PCOLAR, called as a witness, and
22 having been first duly sworn by a Notary Public, was
 examined and testified as follows:

23 DIRECT EXAMINATION BY MR. HAND:

24 Q Good afternoon, Mr. Pcolar. Can you state your
25 position with Agri-Mark?

1 A I'm senior vice president of plant operations for
2 Agri-Mark.

3 Q And you have prepared prefiled testimony in this
4 proceeding on behalf of Agri-Mark?

5 A I have.

6 Q Do you have a copy of that before you?

7 A Yes, sir. I do.

8 Q That is, I believe, four pages of testimony, six
9 pages, excuse me, six pages, excuse me.

10 A Yes.

11 Q Do you have any corrections to make to your
12 testimony?

13 A No, sir. I don't.

14 MR. HAND: Agri-Mark would move the
15 admission of Mr. Pcolar's testimony into the
16 record.

17 CHAIRMAN VOLZ: Any objection? It's
18 admitted.

19 MR. HAND: The witness is available for
20 cross.

21 CHAIRMAN VOLZ: Do any of the parties
22 have any questions? My understanding is you
23 didn't. If you changed your mind, that's
24 okay. Okay. We have some questions.

25 MR. BURKE: In your testimony you seem

1 to indicate that you see an incredible
2 commercial purpose above and beyond the
3 residential purpose. This is your
4 opportunity to say a little more about that.
5 Would you like to expand on that, why you see
6 that kind of potential here?

7 THE WITNESS: Say in our business, the
8 Middlebury facility is only one of the
9 facilities and all of these, all of our
10 plants are integrated in some form or
11 another. Some, so when we look at the
12 initial commercial value to us it extends for
13 other facilities, our warehouses, our other
14 facilities in Vermont also.

15 It does allow us an opportunity to
16 support the community, our farmers very much
17 are very conscious of the communities that
18 they have operations in and employ people in.
19 And so we feel that besides us, people along
20 the intended route would have the opportunity
21 for natural gas would also benefit from it.

22 MR. BURKE: There is a certain amount of
23 cost to any project. And your -- Agri-Mark
24 maybe more than most has a symbiotic
25 relationship with the community because there

1 are farms, farmers, individuals, residences
2 on all of these farms.

3 Did you contemplate all of those as well
4 when you filed your testimony and supported
5 this project?

6 THE WITNESS: Yes. Obviously our
7 primary goal from the standpoint of
8 operations is to maximize the return to our
9 farmer owners, their employees. We have
10 about 200 farms that deliver milk to the
11 facility. And we also have about 150
12 employees that will benefit obviously from
13 that cost reduction. It's our opportunity to
14 increase wages and return to our farmers.

15 MR. BURKE: Thank you.

16 CHAIRMAN VOLZ: Mr. Pcolar, you heard
17 Mr. Wolfe testify a few minutes ago?

18 THE WITNESS: Yes, sir, I did.

19 CHAIRMAN VOLZ: And he talked about the
20 opportunity of renewable energy. I was just
21 wondering what fuel are you using today?

22 THE WITNESS: We use actually two
23 different fuels. No. 6 fuel oil with one
24 percent sulfur and also propane.

25 CHAIRMAN VOLZ: If the natural gas

1 pipeline came through would you replace both
2 of fuels niece with natural gas?

3 THE WITNESS: We would intend to replace
4 both.

5 CHAIRMAN VOLZ: Is it possible to
6 replace, the processes you are using the fuel
7 for, is it possible to use wood chips or wood
8 pellets?

9 THE WITNESS: We haven't directly
10 considered wood pellets or wood burners. I
11 am familiar with them being used in dairy
12 manufacturing operations. And with some
13 difficulty. It's a very intensive type of
14 operation to use those.

15 And I would say natural gas obviously is
16 much cleaner, much more efficient to use than
17 the renewable energy would be.

18 Our demand is very intensive at times.
19 We really need to, we have both direct heat
20 that we need to use to dry our products and
21 we also use indirect heat to heat liquid
22 products, whey products. At times it's very
23 demanding, very intensive.

24 MR. BURKE: Thanks.

25 CHAIRMAN VOLZ: Any questions?

1 MR. YOUNG: Just a few quick questions.
2 Have you looked into the possibility of using
3 compressed natural gas?

4 THE WITNESS: We have, we have. And we
5 do have that project under consideration all
6 depending on how long it would take the gas
7 line to come through. Obviously we heard
8 testimony today it would be November of '14.
9 We are beginning to permit process now to
10 accept natural gas. If the gas line was
11 delayed certainly natural, compressed natural
12 gas would be an alternative for us to help us
13 get a return on our investment sooner.

14 MR. YOUNG: If you had both options
15 available do I take it you would prefer --

16 THE WITNESS: Natural gas, natural gas,
17 yes.

18 MR. YOUNG: Pipeline --

19 THE WITNESS: Pipeline over the
20 compressed natural gas, yes.

21 MR. YOUNG: Next area is energy
22 efficiency programs. Are there -- have you
23 had any discussions with Vermont Gas about
24 the possible participation in sort of energy
25 efficiency programs as part of installing

1 natural gas equipment?

2 THE WITNESS: I'm not aware that we
3 have.

4 MR. YOUNG: Do you foresee any potential
5 energy efficiency gains or --

6 THE WITNESS: Very much so.

7 MR. YOUNG: -- or other gains you could
8 take advantage of?

9 THE WITNESS: Essentially we do that now
10 and would like to expand upon it. We try to
11 utilize every bit of heat energy that we have
12 in the form of regeneration. Boiler feed
13 that is already preheated and soft water that
14 come off of our operations. Anytime we can
15 recover energy we use at the facility we do.

16 MR. YOUNG: Thank you.

17 MR. BURKE: One more.

18 There has been a lot of testimony in
19 this docket and a lot of comments made, that
20 indicates that there's no way to live with
21 this pipeline and continue the spirit of a
22 march toward renewable energy as the major
23 part of our portfolio.

24 Do you agree with that? And if you do
25 or don't, can you explain your answer?

1 THE WITNESS: I would say that there is
2 an opportunity for renewable energy in our
3 facilities. At the present time probably our
4 opportunities are greater for heat recovery
5 and efficiencies that we can get a better
6 return on sooner than we can renewable
7 energy. We have looked into it.

8 We have developed a manager of
9 sustainability who reviews the different
10 availability for us. We do have some farms
11 on methane generation that are regenerating
12 electricity that we do have some credits for.
13 So, yes, it's very much on the forefront. A
14 great turn on investment. The rate now is
15 probably greater in heat recovery type things
16 we can do at the facility as opposed to
17 renewable energy which has a longer return on
18 investment.

19 MR. BURKE: So is it fair to say then as
20 renewables move forward and that return on
21 investment gets shorter and shorter that you
22 would be more inclined toward renewable
23 energy?

24 THE WITNESS: We would consider, yes,
25 sir.

1 MR. BURKE: Thank you.

2 CHAIRMAN VOLZ: Any follow-up to our
3 questions? Ms. Levine?

4 CROSS EXAMINATION BY MS. LEVINE:

5 Q Good afternoon.

6 A Good afternoon.

7 Q Sandra Levine with Conservation Law Foundation.

8 Just to follow up on Mr. Burke's most recent
9 questions about consistency with renewable energy needs
10 going forward.

11 You haven't done any analysis of specific
12 consistency with renewable energy needs for your business,
13 have you?

14 A I have not personally, but I understand that we
15 have.

16 Q And to the extent you provided testimony on that it
17 related only to use of renewable energy perhaps in the next
18 few years, out a decade, out 20 years? What period of
19 time?

20 A I couldn't, I couldn't say. I'm sorry.

21 Q And would you agree if you made a significant
22 investment now in conversion to natural gas that that might
23 delay future investments in renewable energy?

24 A I would say no. For us natural gas is primarily
25 heat energy. We would look at renewable energy and

1 probably has the greatest application at our facilities for
2 electricity and electrical usage. So we see them as
3 renewable portion, I think, for our types of operations
4 would need to be electric.

5 Q And you answered a couple of questions concerning
6 your exploration of I think of wood and pellets.

7 You haven't done a specific analysis of the
8 feasibility of using pellets?

9 A I have not. My memory is from old operations many
10 years ago which operations were converted to wood chips and
11 our familiarization only with a partner in business at one
12 time.

13 Q And as to renewable energy for thermal applications
14 you haven't specifically looked at that?

15 A No, we have not.

16 Q Thank you. That's all.

17 A Thank you.

18 CHAIRMAN VOLZ: Any other follow-up
19 questions for this witness?

20 CROSS EXAMINATION BY MR. PALMER:

21 Q Just a quick one as a gas line was there a
22 preference for the pipeline over anything now you can get
23 converted over?

24 A Obviously we've looked at both, Mr. Palmer. For us
25 one of the considerations we have is the number of trucks

1 that are on the road and obviously the gas line would,
2 that's always one of our Act 250 criteria we have to
3 consider. So our preference would be a gas line as opposed
4 to trucking it in, transferring.

5 Q It's not a balance of the same amount of trucks
6 bringing the fuel you use now versus natural gas?

7 A It would actually be more than there would be for
8 fuel oil.

9 CHAIRMAN VOLZ: Any other follow-up?

10 All right. Thank you. Any redirect?

11 MR. HAND: No, thank you.

12 CHAIRMAN VOLZ: Which witness would you
13 like to go to next? Ms. Jensen? If you
14 would like to get her on and off we can do
15 that. Why don't we do her next.

16 SYLVIA JENSEN, called as a witness, and
17 having been first duly sworn by a Notary Public, was
examined and testified as follows:

18 DIRECT EXAMINATION BY MS. ZAMOS:

19 Q Would you tell us your occupation, please?

20 A I am the land use administrator with the Agency of
21 Agricultural.

22 Q Do you have a document in front of you titled
23 Prefiled Direct Testimony of Sylvia Jensen on behalf of the
24 Vermont Agency of Agricultural, Food and Markets dated
25 June, 14th, 2013 consisting of nine pages?

1 A Yes, ma'am.

2 Q Was that testimony prepared by you or under your
3 direct supervision?

4 A Under my direct supervision.

5 Q Was it accurate and truthful at the time you
6 prepared it?

7 A Yes.

8 Q Is it accurate and truthful today?

9 A It is.

10 Q Does your testimony include an exhibit?

11 A Yes.

12 Q Described as AAFM Number 1 Ag Interest VGS MOU dated
13 June 14th --

14 A Yes.

15 Q -- 2013?

16 A Yes.

17 Q Does that consist of eight pages?

18 A Yes.

19 Q Does it also contain five separate appendices?

20 A Yes, ma'am.

21 Q Was this exhibit and its appendices prepared by you
22 or under your supervision at the time it was prepared?

23 A Under my supervision.

24 Q Was it true and accurate at the time you prepared
25 it?

1 A Yes, ma'am.

2 Q Do you have any updates to the exhibit or any of the
3 five appendices?

4 A Yes.

5 Q Which has to be updated?

6 A On Exhibit AAFM 1, turn to page 4.

7 Q In general, can you just describe in general what
8 the nature of the update is?

9 A There has been a revision to the Agency of Natural
10 Resources MOU with Vermont Gas Systems on the vegetative
11 plan and we have referenced that in these documents.

12 Q So do the corrections you are going to make today
13 correspond to the new Vegetation Management Plan?

14 A That's correct.

15 Q Could you describe the first change in
16 Exhibit Number 1?

17 A Okay. Exhibit number 1, page 4, you will see on the
18 second line of the paragraph, it says May 3rd, 2013. And
19 you will see revised September 16, 2013. That is
20 reflecting the changes to the MOU.

21 If you want to continue to appendices.

22 Q Let me ask you. Did you also bring a couple of
23 strike-out versions so the Board can see exactly where the
24 change were made?

25 A Yes. One moment, please.

1 Q Do you have those with you, Sylvia?

2 A I do. I have so many papers here.

3 MS. ZAMOS: If it please the, Chair.

4 CHAIRMAN VOLZ: That's fine.

5 BY MS. ZAMOS:

6 Q Ms. Jensen.

7 A My apologies.

8 Q Let's turn to appendices number one. Does that have
9 any changes to update the revised Vegetation Management
10 Plan?

11 A Yes, page 10.

12 Q We also --

13 A I'm sorry, page 2 of the appendices number one. Or
14 page 10 overall.

15 Q Or page 10 overall. We have a strike-out version
16 for that; is that correct, Sylvia?

17 A Yes.

18 Q Were there any changes to appendices number two?

19 A No.

20 Q Any changes to appendices number three?

21 A No.

22 Q Appendices number four?

23 A No.

24 Q How about appendices number five?

25 A Yes. Yes.

1 Q What's the nature of the change to number five?

2 A On page 32.

3 Q Thirty-two and thirty-three?

4 A Yes.

5 Q Could you describe what the change is?

6 A It, again, it's referencing -- one moment, please.

7 Q Let -- go ahead.

8 A So these are the sections within the Vegetative
9 Management Plan that we've attached to my testimony and as
10 appendices, but these are the sections that pertain to the
11 vegetative plan that we referenced in previous, in my
12 testimony.

13 Q So do you want substitute --

14 A Yes.

15 Q -- to reflect the latest version of the vegetative
16 management --

17 A That is correct.

18 Q With those changes that you described, is this
19 exhibit and it's appendices accurate today?

20 A It is as of today.

21 MS. ZAMOS: I would like to at this time
22 offer Ms. Jensen's testimony and the exhibits
23 with it's five appendices.

24 CHAIRMAN VOLZ: Any objection?

25 MS. HAYDEN: No objection.

1 CHAIRMAN VOLZ: Okay. Those are
2 admitted.

3 MS. ZAMOS: Thank you.

4 CHAIRMAN VOLZ: The witness is available
5 for cross examination?

6 MS. ZAMOS: She is.

7 CHAIRMAN VOLZ: Okay. Mr. Palmer, you
8 had some questions, Mr. Palmer?

9 MR. PALMER: I think my questions are
10 answered through.

11 CHAIRMAN VOLZ: Okay. All right. Thank
12 you. Do you have questions?

13 MR. BURKE: I do.

14 Good afternoon, Ms. Jensen.

15 THE WITNESS: Good afternoon.

16 MR. BURKE: I notice in your CV and your
17 testimony that you actually come from a farm
18 background yourself.

19 THE WITNESS: I was raised on a
20 1100-acre dairy beef and grain farm and I now
21 own a 130-acre farm.

22 MR. BURKE: And I note that you indicate
23 that now the farm, you are able to work full
24 time for the Department because you have
25 hoisted some of this off on your son.

1 Did I read that correctly?

2 THE WITNESS: He has grudgingly decided
3 to help me. But yes, yes. I have grown
4 children and they are very helpful.

5 MR. BURKE: I noted, and the reason I
6 really wanted to ask you this line of
7 questioning, I noted that you made a point in
8 your CV of saying that when you sort of
9 morphed your farm to a degree that one of the
10 things you morphed into was high value, small
11 fruits and vegetables.

12 Can you explain what that means exactly,
13 what high value, small -- what's that mean
14 to --

15 THE WITNESS: So basically the dairy
16 cows were sold in 2000. I had dairy cows for
17 20 years. And then a buyer came and I
18 accepted their offer. And then I decided
19 that it was beef. Then the following year I
20 said, well, I am not going to do beef. I'm
21 going to do sweet corn. I had children to
22 put through college. They needed some books
23 and this was a great way to get them vested
24 into buying their books by helping me with
25 the sweet corn.

1 We also did a, I forget, one- or
2 two-acre garden to supplement the farm stand.
3 I had wonderful fruit trees from France.
4 They are called mirabelle plums and they are
5 a wonderful unique fruit that nobody else has
6 around here. So that was my high value
7 fruit. We also did some pickles. And we had
8 a little bit of value added to enhance the
9 farm stand.

10 MR. BURKE: And it's a constant struggle
11 for farms today to try to make those ends
12 meet; is that true?

13 THE WITNESS: A lot has to do with
14 management, sir.

15 MR. BURKE: And if you find a way to
16 create a niche for yourself, that can be very
17 important to a farmer today; true?

18 THE WITNESS: There are many farmers who
19 develop many different niches, but that
20 definition can be very broad. Because there
21 are people who are actually extremely good at
22 managing large dairy operations or large beef
23 operations because they found their niche in
24 management.

25 And you have others who have developed

1 markets or have been creative enough to add
2 value to their products to even expand their
3 markets and to sell direct to consumers.

4 MR. BURKE: And is one of those
5 methodologies that farms have found, at least
6 here in Vermont I'm familiar with some of
7 them, the idea of branding yourself as
8 organic and growing organic?

9 THE WITNESS: There are people who are
10 certified organic farming in the state of
11 Vermont, yes.

12 MR. BURKE: I know this may not be your
13 exact, but we don't have a witness who is,
14 you are the closest thing we've got.

15 THE WITNESS: Oh, dear.

16 MR. BURKE: Can you explain to me the
17 concept of the certification of organic
18 farming and whether or not this pipeline has
19 the potential to really affect that?

20 THE WITNESS: I do not have the
21 expertise to answer that question. We do, we
22 did due diligence in our collaborative spirit
23 with our conservation partners and Vermont
24 Gas Systems where we had Vermont Land Trust
25 reached out to the organic community and in

1 particular Northeast Farm Association. And
2 they researched that for us. But I did not
3 personally participate in that.

4 MR. BURKE: Based on the due diligence
5 did you form as opinion as to whether or not
6 this pipeline would impact the ability to be
7 certified as organic?

8 THE WITNESS: State your question again,
9 please.

10 MR. BURKE: Based on that due diligence,
11 the reach out that you had, were you able to
12 form an opinion as to whether or not the
13 pipeline would affect those impacted
14 landowners from being certified as organic?

15 THE WITNESS: The closest we came to
16 that, sir, is when it came to having spraying
17 for vegetative -- to eliminate vegetative
18 cover. We said no, that it would have to be
19 a brush hogging, then we would have to allow
20 vegetation to come back in a feathered
21 affect. So we supported non-spraying for the
22 maintenance of the corridors, the pipeline
23 corridor.

24 MR. COEN: You said you consulted with
25 the Northeast Organic --

1 THE WITNESS: I did not. Vermont Land
2 Trust.

3 MR. COEN: You got a report on that?

4 THE WITNESS: No, we did not, sir. I
5 should say I did not see a report on that.

6 MR. BURKE: It's frustrating to a degree
7 because this question is important to me, so
8 I'm trying to... let me go to what I know you
9 have dealt with here.

10 THE WITNESS: Okay.

11 MR. BURKE: In the MOU you indicate that
12 the minimum depth will for lands that are
13 agricultural land will be four feet; am I
14 right about that?

15 THE WITNESS: Yes, sir.

16 MR. BURKE: And is four feet a magic
17 depth for, can you explain that to me a
18 little bit?

19 THE WITNESS: I certainly can.

20 My brother installs tile drainage
21 commercially. He also has a 700-acre farm,
22 but he installs tile drainage. And many clay
23 soils, but many soils in the state of Vermont
24 could be improved with tile drainage or, I
25 should, say crop yields would be improved

1 with tile drainage.

2 And so talking with him he uses the
3 latest form of technology GPS. So I feel
4 very confident in that resource. But he
5 says, of course, it's all site specific, but
6 on hold you are to develop policy having that
7 four-foot, for a better word, ag zone, or an
8 area that agricultural activity improvement
9 can occur without disturbing the pipeline is
10 essential.

11 MR. BURKE: These soils are just heavier
12 soils in general; is that true?

13 THE WITNESS: Yes, sir. Especially on a
14 year like we had this year with the wet
15 spring.

16 MR. BURKE: I think that answers the
17 question I had. Thank you. Well, other than
18 the one I really wanted to ask that you
19 couldn't answer, aside from that, thank
20 you.

21 THE WITNESS: You are welcome.

22 MR. YOUNG: Just one quick area.

23 You discuss on page 2 of your testimony,
24 I don't think you are going to need to turn
25 there. The fact that the Agency co-holds

1 farm conservation easements with partner
2 entities. What exactly is a farm
3 conservation easement? What are the
4 limitations or requirements?

5 THE WITNESS: Okay. So Vermont Housing
6 and Conservation Board receives funding every
7 year for the acquisition of conservation
8 easements. And one of the three -- one of
9 the two areas that they focus on for
10 conservation land is farmland conservation.
11 And in that it can be, two, three, maybe \$4
12 million. Then we have some federal match.

13 What happens is that three of some of
14 the farms that are going to be impacted by
15 the pipeline have a conservation easement.
16 And basically they do not have the right to
17 convey an easement on their land unless they
18 get permission which we sole held at our sole
19 discretion can grant. And that's the
20 permission to grant an easement. That's
21 exactly what would be necessary for this
22 pipeline.

23 So we, the Agency of Agricultural, the
24 Vermont Housing and Conservation Board and a
25 nonprofit, it's either Vermont Land Trust or

1 Upper Valley Land Trust that operates as our
2 steward, threw their boots on the ground
3 visiting the landowners every year.

4 MR. YOUNG: Okay. And that part I
5 actually did understand from your testimony.
6 My question is in order to obtain that
7 conversation easement presumably the
8 landowner agreed to do certain things?

9 THE WITNESS: The landowner got
10 compensated financially.

11 MR. YOUNG: So basically the landowner
12 gets compensated financially for agreeing not
13 not to convey the land without --

14 THE WITNESS: Agree to not subsidize the
15 land comes with it the right to grant
16 easements, the right to build extra houses.
17 You know, there is a multitude of rights and
18 restrictions in the easement. It's typically
19 about 17 to 19 pages long now.

20 MR. YOUNG: And that was what I was
21 trying to get at. So the landowners are
22 basically making a number of commitments
23 restricting his ability to, his or her
24 ability, to unilaterally develop the land in
25 exchange for compensation.

1 THE WITNESS: They get financial
2 compensation based on an appraisal.

3 MR. YOUNG: Thank you.

4 THE WITNESS: You're welcome.

5 CHAIRMAN VOLZ: Any follow-up based on
6 our questioning?

7 MR. PALMER: I think possibly.

8 MR. COEN: Bring the mic up to you.

9 CROSS EXAMINATION BY MR. PALMER:

10 Q You mentioned you had a small orchard on your farm?

11 A I had plums.

12 Q Plums?

13 A Unfortunately plum rot has gotten them and I've had
14 to cut them down. Unfortunately because it was a very
15 beautiful fruit from France.

16 Q So you have a vision if you were to have a pipeline
17 come through your orchard, cut a 75-foot swath, would you
18 consider that as an adverse impact on your operation?

19 A Mr. Palmer, I reached out to two Franklin County
20 farmers who have lived with the pipeline. And one that I
21 trust very much. And that I would definitely, that I found
22 is very sincere and honest and a really great family man.
23 He is about profitability. He is all about farm
24 profitability. We spoke about management as being a niche.
25 Some are better than others. Well, he is a supreme manager

1 of his family farm. And it's certainly going on to the
2 next generation and the next generation after that.

3 And he has going across 127 acres, and it's a major
4 swath and he did say that there was a -- that you have to
5 be careful how they excavate. And you have to be there.
6 You can't be an absentee landowner, but he has seen no
7 problem in farming his land that's bisected by this
8 pipeline.

9 So given that I would yes, be my own best advocate
10 when they are excavating through my property to make sure
11 that top soil is treasured. But I would feel confident in
12 farming post-construction.

13 Q Do you acknowledge it would be damaged during
14 construction?

15 A I acknowledge that there would be activity that
16 would not -- if it was done during an agricultural season
17 that I would not be able to farm during that time.
18 However, it is -- I feel from the information I received
19 from this Franklin County farmer, and besides it was
20 another one I reached out to, but this one in particular I
21 know personally, that there was not a delay from that point
22 on.

23 Q So minimal impact. And that was with traditional
24 farming, whether they were using fertilizer? My question
25 is do you feel there would be more of an impact on the soil

1 if you were farming organically?

2 A I cannot answer that question.

3 Q Thank you.

4 CHAIRMAN VOLZ: Any other follow up?

5 Mr. Hurlburt?

6 CROSS EXAMINATION BY MR. HURLBURT:

7 Q Yeah, I have a question. At one of the meetings we
8 had a month, there was one of these farmers, it might be
9 one of the ones you are talking about, who has the pipeline
10 on their property already. They mentioned that having the
11 pipeline actually changed the temperature of the soil for
12 15 feet around the pipeline. Do you know anything about
13 that?

14 A The two individuals I reached out to in Franklin
15 County said nothing about that.

16 Q Okay. That's it.

17 CHAIRMAN VOLZ: Any other follow-up?

18 Any redirect, Ms. Zamos?

19 MS. ZAMOS: No, thank you.

20 CHAIRMAN VOLZ: Okay. Thank you. Thank
21 you, Ms. Jensen, you are excused.

22 CHAIRMAN VOLZ: I think it might be time
23 for our afternoon break. Unless there is a
24 problem with that. Thank you.

25 (Recess taken)

CHAIRMAN VOLZ: We are back from a break. Judging from the body language it looks like we're up to Mr. Carr which is to say he is in the witness chair.

JEFFREY CARR, called as a witness, and having been first duly sworn by a Notary Public, was examined and testified as follows:

DIRECT EXAMINATION BY MS. HAYDEN:

Q Mr. Carr, can you please state your occupation for the record?

A I'm president and senior economist at Economic and Policy Resources which is an applied consulting firm in Williston, Vermont.

Q And your connection to this proceeding?

A I've been hired as an objective witness to measure the economic, the state economic impacts associated with this proceeding.

Q Do you have in front of you a document titled Prefiled Testimony of Jeffrey B. Carr on behalf of the VGS December 20, 2012, with a correction date of May 20, 2013 consisting of thirteen pages?

A Correct.

Q You do?

A Yes, I do.

Q Was that document prepared by you or under your direct supervision?

1 A Both.

2 Q And with the corrections that were made on May 30th
3 is it true and accurate to the best of your knowledge and
4 belief?

5 A Yes, ma'am.

6 Q Do you also have an Exhibit JC-1, your resume,
7 together with Exhibit JC-2 and JC-3 both having revisions,
8 excuse me, revision dates of May 30, 2013?

9 A That's correct.

10 Q And with the revisions that were made on May 30,
11 2013, are Exhibits 2 and 3 true and accurate to the best of
12 your knowledge and belief?

13 A Yes, ma'am.

14 Q And Exhibit 1 is also true and accurate to the best
15 of your --

16 A Best of my knowledge and belief, yes.

17 Q Okay. You also have in front of you Rebuttal
18 Testimony of Jeff Carr on behalf of Vermont Gas Systems
19 dated June 28, 2013, consisting of eight pages together
20 with a cover page and an index?

21 A Let me just double check. I don't know if I have
22 that in my notebook. Can I take quick peak at it?

23 Yes, that's mine.

24 Q Do you have a copy of that with you?

25 A I don't have a copy with me in that book, but I am

1 familiar with it.

2 Q I'm going to hand you my copy.

3 A Thank you.

4 Q Do you also have Exhibit Petitioner's Rebuttal JC-1
5 which is entitled Annual Energy Outlook 2012?

6 A I do have that, yes.

7 Q Was your Prefiled Rebuttal Testimony prepared by you
8 or under your direct supervision?

9 A Yes, ma'am.

10 Q Is it true and accurate to the best of your
11 knowledge and belief?

12 A Best of my knowledge and belief.

13 Q Are there any corrections you need to make at this
14 time?

15 A Not that I'm aware.

16 MR. HAYDEN: I move the direct and
17 rebuttal testimony and exhibits of Jeffrey
18 Carr.

19 CHAIRMAN VOLZ: Any objection? Okay.
20 They are admitted.

21 Mr. Saudek, I believe you are the only
22 one signed up to cross this witness.

23 MR. SAUDEK: Thank you, Mr. Chairman.

24 CROSS EXAMINATION BY MR. SAUDEK:

25 Q Hi, Mr. Carr.

1 A Good afternoon.

2 Q You use a three percent discount rate?

3 A Yes, sir.

4 Q How much of that rate includes credit card debt, any
5 of it?

6 A It could. And I think it probably does an average
7 cost of capital to a household.

8 Q How much -- did you do a weighted --

9 A No.

10 Q -- average?

11 You did not?

12 A No.

13 Q I'm sorry.

14 A We use the -- we used a rate that was in a previous
15 published docket dealing with energy efficiency that seemed
16 to be appropriate to us. When you go back and you look at
17 other options that households have to make expenditures to
18 give access to the gas. When you consider things like if
19 they had savings, one-year CDs, five-year CDs, saving
20 account interest. When you consider opportunities perhaps
21 these home equity lines of credit and fund conversion
22 expenditures, that three percent seemed to be reasonable.

23 Q So it's just that it seemed to be reasonable, it had
24 no basis in some sort of averaging or some sort of
25 statistics or anything like that.

1 A Sure it does. I mean, what you are trying to do,
2 you are trying to think about if a household were to
3 undertake expenditures in order to gain access to natural
4 gas, that they only have certain ability to access funds to
5 do that. They can borrow, they can borrow through any
6 number of different vehicles. They can also use their
7 savings or they can fund it out of their current income
8 streams. All of those things have opportunity costs. When
9 you go in and look to see what the opportunity costs for
10 them for using income or for savings, that seemed like an
11 appropriate discount rate.

12 Q I guess I still don't understand why that's
13 appropriate as opposed to three and a half, or two and a
14 half, or four, or five what --

15 A Well, we used a variety of information. One of the
16 pieces of information was the docket that dealt with energy
17 efficiency expenditures by household.

18 Q I see. Okay. So you basically took it from that
19 document?

20 A No, not that. And the other analysis that we did to
21 test whether or not that type of a discount rate versus one
22 that was 20 percent or 30 percent or ten percent was what
23 we arrived at. Yes, it was a fully considered analysis.

24 Q What cost did you use for a customer to convert to
25 natural gas from, say, oil?

1 A Yeah, as we indicated in our analysis we used a
2 Connecticut study as a footnote in our testimony. The
3 2001 --

4 Q Those costs --

5 A Those costs? \$7500 for the household for residents.
6 If you let me get to it. \$40,300 for commercial and
7 \$40,600 for larger customers.

8 Q Why didn't you use Vermont costs?

9 A Well, when we went through the process with the
10 Petitioner on what their actual experience was, they were a
11 lot lower than that. And we felt that we wanted to have a
12 source that was independent, third party that did a very
13 rigorous analysis of what the conditions were going to be
14 in their particular state because they were moving towards
15 a policy that involved more natural gas.

16 And so rather than going with a lower number, which
17 would then increase the amount of fuel savings that
18 households would and commercial industrial customers would
19 have, we felt that if we had a source amount and we felt it
20 was conservative, and by conservative I mean it was on the
21 high end of what customer or household base conversion
22 costs would, then we felt comfortable going with that in
23 our analysis.

24 Q What is the Vermont experience?

25 A I don't have an opinion on that. I can't testify to

1 that. The only experience I have is when I did it in my
2 own household. I would say when we did a conversion of our
3 heating plan and our hot water we didn't even get to half
4 of that.

5 Q So you had no basis from Vermont to look into it?

6 A No, that's not true. The Petitioner supplied us
7 with their experience, what they had for conversion, I
8 believe, it was the Jericho leg of the journey. And when
9 we looked at it we said that's nice, but we're looking at
10 over the next five years. We felt comfortable going with
11 the one that was more rigorous. The Petitioner said I
12 think we can beat that. I said but I think that still
13 needs to be in the analysis because of source.

14 Q Supposing a quarter of the people who converted put
15 it on their credit cards, would you -- first, would you
16 agree with me that's not an outrageous assumption they
17 might put it --

18 A I wouldn't think that's a most likely assumption. I
19 would disagree with you on that.

20 Q Okay. But it's not outrageous; right?

21 A I don't think it's worthy of incorporation into the
22 analysis.

23 Q Okay. You have talked generally about jobs and the
24 kind of economic health that would be created, is that fair
25 to say, by this pipeline?

1 A No. I think what I'm saying is that when we analyze
2 the direct impacts and then also the indirect impacts, that
3 we think there is a net positive benefit to the state of
4 Vermont. I'm not opining as to anything other than that.
5 And I think it's a reasonable good objective analysis of
6 what we can expect over the time period of the analysis.

7 Q In your opinion would the -- would the pipeline be
8 likely to back out potential renewable energy jobs?

9 A If you are referring to some of the other testimony
10 that's been filed, I think personally my own view is I
11 think there is room at the table for everyone.

12 In this particular analysis that we did on this
13 particular project, we did not assume that the natural gas
14 sales would displace, for example, electricity. We, in
15 working with the Petitioner, did an analysis that looks at
16 how natural gas would substitute for fuel oil and propane.
17 Most of the renewables right now and the technologies that
18 are available are electricity generation based or for
19 individual homes. And I think that the thermal units that
20 come from this and some electricity even for, you know,
21 single for homes, I think there is room at the table for
22 everyone. I don't think they are mutually exclusive.

23 Q Part of what you do is project the future; right?
24 Try to?

25 A Part of what I do, yes. Been doing it a long time.

1 Q What I'm asking about you basically -- my question
2 is would you not agree that it's plausible that the, that
3 the, that potential jobs and renewable energy such as the
4 ones Mr. Wolfe was talking about, would be threatened by
5 the fact that you now have a new source of fossil fuel that
6 will last, what, 75, a hundred years, or whatever?

7 A I look at this proposal by the Petitioner for two
8 reasons. Number one, I think there is efficiency argument
9 to be made for the approval of the pipeline, the ability to
10 deliver thermal units to households and to commercial
11 businesses and to large users in a more efficient way.

12 And so, you know, I don't think that that
13 necessarily is in conflict with renewable development.
14 This is an application that's about choice for the
15 consumers, whether they are residential or whether they're
16 commercial or industrial. And my belief is that households
17 and business commercial businesses and larger users,
18 industry users, have the capacity to examine the facts,
19 examine the marketplace and make decisions based on what
20 fits their own interest, both economic non-economic. I
21 don't think economics drives everything. I think it
22 explains everything, but I don't think it drives
23 everything. And I think that households and businesses
24 will make rationale decision based on what works for them.

25 Now, certainly for some households and certainly for

1 businesses as they compete in a globally economically stage
2 price and costs are important considerations for them in
3 their overall all mix of things.

4 So you are asking me does that exclude renewables I
5 don't think it does at all. And I don't think -- as I said
6 before, I think there is room for everybody at the table.
7 And if renewables fit the decision tree of either
8 households or businesses in the overall scheme of things
9 and they have access to that, they will choose that over
10 whether it's fuel oil, propane, natural gas and I don't
11 think that we can prejudge that at this point in time.

12 I will love to see the technology develop to make it
13 commercially feasible for people to move renewables, to
14 meet the needs of an Agri-Mark. But at this particular
15 time I don't think it does. And so we have to be concerned
16 about practical realities, is that we have to get there.

17 To say the households and the businesses shouldn't
18 have the choice that's offered by this particular proposal,
19 may not be the best decision in terms of policy considering
20 the economics.

21 Q I'm going to change the subject.

22 A That's okay.

23 Q Vermont Gas introduced cross examination of
24 Mr. Gilbert in this case, an exhibit called VFDA-19. It
25 was -- it is a report called the Energy Strategist for 2013

1 Energy Outlook by Bank of America, Merrill Lynch. You are
2 aware of --

3 A Yeah, I've seen it. I've read Mr. Gilbert's
4 testimony and I'm aware that he supplied that and I think I
5 may even have a copy of it.

6 Q Okay. Do you have a copy there?

7 MS. HAYDEN: I have a copy if the
8 witness doesn't have one. It may be more
9 efficient for me to hand it to him.

10 A No, I think I have it. Energy Strategist, Bank of
11 America Merrill Lynch 2013 Outlook, is that what we are
12 looking at.

13 Q Yes.

14 A Yes, I think I have it.

15 MS. TIERNEY: There should be a marked
16 exhibit.

17 MS. HAYDEN: I would prefer he use the
18 marked exhibit.

19 CHAIRMAN VOLZ: Tell us what's on the
20 yellow sticker.

21 THE WITNESS: Exhibit, Petitioner
22 Exhibit Petitioner Cross VFDA-18, Docket
23 7970.

24 CHAIRMAN VOLZ: Thank you.

25 ////

1 BY MR. SAUDEK:

2 Q On page 3. Toward the bottom of the page there is a
3 table. Do you see that?

4 A You mean Table 2?

5 Q Yes.

6 A Okay.

7 Q And could you tell us what that table is entitled?

8 A DOA, Merrill Lynch price forecast period averages.

9 Q Okay. Take a look, if you would, please, I think
10 this will be incidentally.

11 MR. SAUDEK: I don't know whether you
12 have it to look at, members of the Board, but
13 I think we are pretty obvious what I'm
14 asking.

15 BY MR. SAUDEK:

16 Q Take a look, if you would, do you see that column
17 saying 2012-F, it's the second column with numbers in it?

18 A Uh-huh. Yes, I see it.

19 Q Okay. Now, is that an average price for 2012?

20 A No, it's a forecasted price.

21 Q No. Well --

22 A It's a forecast in price. It can't possibly be
23 history because we were in November. Okay. I'm sorry.

24 Q All right.

25 A It's a forecasted price.

1 Q I can't tell you exactly what date this came out.

2 Oh, November 2012.

3 A It says November 30th, 2012, in the upper left-hand
4 corner.

5 Q And in November 2012 what this means right they
6 issued this document. And the top line has what amount for
7 WTI crude?

8 A For what year?

9 Q For 2012.

10 A \$94 a barrel. I assume that's per barrel yes.

11 Q And the last column over on the right has another
12 number for WTI crude; right?

13 A It does.

14 Q What is that number?

15 A That number says 92.

16 Q Okay. What does that represent in terms of
17 percentage decreases?

18 A Well, if it were true --

19 Q Absolutely --

20 A -- it were true --

21 CHAIRMAN VOLZ: Excuse me. One person
22 at a time. So don't start answering until he
23 has finished his questions. Once he starts
24 answering don't interrupt him, please. Thank
25 you. And let me finish talking then you can

1 go next. Thank you. Go ahead, Mr. Saudek.

2 MR. SAUDEK: Who do you want to speak,
3 Mr. Chairman?

4 CHAIRMAN VOLZ: You can go ahead now.

5 BY MR. SAUDEK:

6 Q Assuming the forecast comes to pass. Okay. What
7 would be the percentage decrease in that?

8 A Less than two percent.

9 Q It's about two, little more than two percent
10 actually, isn't it?

11 A In the math you would have to start at a hundred
12 dollars a barrel in order to get the dollar difference be
13 consentive.

14 Q Okay. Now go down to U.S. Natural Gas which is the
15 second low.

16 A Got it.

17 Q What do you have for 2012?

18 A \$2.84 for an MMBtu which I assume --

19 Q What do you have for 2014?

20 A \$4.20 per million MMBtus.

21 Q If this comes to pass what percentage does that
22 represent?

23 A I can't do at that math in my head. It's a
24 significant increase if this were to come to pass.

25 Q Eleven percent. Now I'm going to ask you to turn to

1 page 17, please, of that report?

2 A I'm there.

3 Q Have you seen that one before when you were studying
4 the witness's testimony?

5 A I read this. I haven't studied it. I've read it.

6 Q I see a risk as you see West Texas crude going down
7 as low as \$50 a barrel.

8 Do you agree with any of their assumptions here?

9 Do you study this sort of thing? Maybe I should ask
10 you that first. Do you study this?

11 A Well, in the normal course of my work I always read
12 about energy prices. Energy prices are very important to
13 the Vermont economy.

14 Q Aside from taking the EIA assumptions that you used,
15 do you agree that the factors that are discussed in this
16 report, which I take it you have at least read part of,
17 could come to pass and could have the effect that they are
18 suggesting?

19 A Quite frankly, I don't even believe that
20 Bank of America Merrill Lynch believes that that's going to
21 happen because they lay it out as a risk. What they say
22 quite clearly on page 17 is while this is not our base case
23 WTI could drop.

24 Q Yes.

25 A So, I mean, that's by their own definition an

1 outlier. And clearly, if you go back to Table 2 where we
2 were before, and you look and see what actually has
3 occurred in the first two quarters of their price forecast,
4 they had a quarter one 2013 price forecast of \$90 per
5 barrel, it was 94.41.

6 And then in 2013 counter quarter two they had a
7 price forecast of \$89 and it was \$94.17. And yesterday
8 West Texas Intermediate Crude closed at \$108 per barrel
9 plus. And they had \$89.

10 Q What has happened to natural gas since 2012?

11 A I don't have that information right in front of me.
12 Since mid-June, if you look at the NYNEX data natural gas
13 for MMBtu has gone up about one percent, little less than
14 one percent.

15 Q If you take it from -- you know whether this 284 --

16 A No, I haven't looked at that.

17 Q -- lower close?

18 A I haven't looked at that. I could, but I haven't
19 looked at it.

20 Q And do you know what it is today, what natural gas
21 is today?

22 A I don't have photographic memory, so I can't -- It's
23 \$3 and something for energy --

24 Q It's in the high threes; right, 375?

25 A I can't characterize it that way.

1 Q 374 maybe?

2 A You are looking at something. I can't see so I
3 don't know how to respond.

4 The other thing, Mr. Saudek, that they do say in
5 here in this document that if they see an increase in
6 natural gas prices they believe it's temporary because of
7 the supply dynamics of the marketplace. So when they talk
8 about natural gas prices in here they say things like that.

9 Q Is there not developing an international market in
10 developing companies for exports of natural gas from the
11 U.S.?

12 A I don't have any direct knowledge of that. I read
13 things all the time. I read that USCIA data. I read other
14 things. And I know there is some talk about that, but I
15 can't characterize it the way that you did.

16 Q All right. Thank you.

17 CHAIRMAN VOLZ: Thank you.

18 MR. COEN: Good afternoon, Mr. Carr.

19 THE WITNESS: Good afternoon.

20 MR. COEN: At the public hearings one of
21 the speakers at the last one was David
22 O'Brien, the first commissioner of public
23 service, and also the former executive
24 director of the Rutland Regional Development
25 Corporation. And he talked about his

1 inability when he was in that last job of,
2 that I mentioned, of attracting businesses to
3 Rutland when, because he couldn't check off
4 on their request sheet whether they could
5 have natural gas or not.

6 It occurred to me during that time that
7 he was executive director of that
8 organization that things probably not that
9 much of a price difference between natural
10 gas and oil.

11 So from your experience in terms of
12 economic development, what is the attraction
13 of natural gas to economic development
14 industry besides price?

15 THE WITNESS: Yeah, that's a good
16 question. In my other life I do quite a bit
17 of economic development. And a lot of the
18 professionals in the industry tell me as well
19 as when you talk to some people who are
20 actually looking for locations, that
21 availability of the thermal units with the
22 flexibility that they have to be able to
23 apply it when they need it, is a critical
24 competitive situation for them.

25 And to the extent perhaps if I

1 underestimated something in my assessment of
2 I believe economic benefits in Petitioner's
3 application, I didn't have a really good way
4 to quantify that. I know that it's there. I
5 know that there is a strategic economic
6 development advantage to having competitively
7 priced fuels to be able to be brought to the
8 production process.

9 Because if you look at all of the things
10 that Vermont is competitive on, and not
11 really competitive on, certainly energy costs
12 is one of the ones that the state of Vermont
13 is not very competitive on. So I know that
14 you want to hear more about that in cost.
15 And a lot of it has to do with also the
16 ability and the flexibility to take it in a
17 way that's going to be delivered via a pipe
18 rather than getting batched deliveries of
19 certain types of thermal units. And I think
20 we heard that clearly, I think today, from
21 one of the larger users in the potentially
22 expanded service area.

23 But a big part of the equation is
24 certainly the price advantage. And the
25 ability that would give our businesses here

1 in Vermont, and potentially could be
2 successful here in Vermont, if they had an
3 enabling factor more competitive energy
4 prices who take their price signals from a
5 global marketplace.

6 When I tell people a lot of economic
7 development you have to understand that
8 businesses in Vermont need to compete in a
9 marketplace where they are taking global
10 price signals. But so much of their cost
11 structure is locally determined by what the
12 availability is and certainly energy is
13 important. If you look at IBM. If you look
14 at our food processing industry, they are
15 very energy intensive industries.

16 If we are able to provide them with a
17 lower source of energy, lower cost source of
18 energy, and give them the ability to be able
19 to use that when they draw upon it when they
20 need it, I think that that has a potential to
21 be beneficial for that economic development
22 efforts.

23 And in particular if it moves to one of
24 our longstanding areas of the state, I know
25 that's not part of this petition, but I know

1 for -- I know from my own experience and the
2 people who have operated in that region, that
3 they see that as important to potential major
4 users in that part of the state as well. And
5 obviously this is an initial step to that.

6 So even though I believe there is a lot
7 of daylight in terms of what I estimate to be
8 the benefits of the Petitioner's request, I
9 may have underestimated it to the extent it
10 could have a positive effect on strategic
11 economic development in the state.

12 MR. COEN: Thank you.

13 CHAIRMAN VOLZ: When you said draw upon
14 it when needed when you were referring to the
15 energy supply. Are you focusing there on the
16 fact it's a pipeline instead of a truck type?

17 THE WITNESS: Yeah, that's part of the
18 efficiency argument.

19 MR. COEN: Or that it could be an
20 interruptible tariff. Is that an
21 attraction?

22 THE WITNESS: That I wouldn't know. You
23 would have to ask the businesses.

24 Nobody has ever come to me and said that
25 interruptible tariff is great for us. So I

1 wouldn't know how to opine on that.

2 MR. BURKE: I took what you said to be
3 telling us that maybe the real issue is that
4 businesses when they are looking to locate in
5 an area would have the ability, depending on
6 the cost factors involved, to be able to move
7 between fuels and choose them maybe better
8 than residences, just having the option might
9 be enough to attract them to an area, and not
10 having the option might send them to
11 someplace where the option exists. Is that
12 what you are telling us?

13 THE WITNESS: No, but I think -- not
14 necessarily. Some degree. But I think also
15 having the choice that if something happens
16 to the natural gas price that they have the
17 ability to maybe switch back. I mean, I
18 don't think as a normal matter of economics
19 that choice in the marketplace necessarily
20 works against an efficiency in the
21 marketplace and having success. It's not
22 just new businesses, it's the businesses that
23 we have that are already here that we have to
24 try to do what we can to policy and defend.

25 And I hear it all the time from the

1 largest employer and representatives in the
2 northwest part of our state that energy is
3 something that's so crucial to them and it's
4 a big part of their costs, it's the largest
5 part of the their costs, that we as people
6 who are involved in economic development need
7 to be sensitive to that and they would hope
8 that policymakers would be very sensitive to
9 that as well.

10 CHAIRMAN VOLZ: Anybody else?

11 MR. YOUNG: Good afternoon, Mr. Carr.

12 THE WITNESS: Good afternoon.

13 MR. YOUNG: Let me start you at page
14 nine of your direct testimony, please.

15 THE WITNESS: Okay. The May 30th
16 testimony or --

17 MR. YOUNG: May 30th, that's correct.

18 THE WITNESS: Okay.

19 MR. YOUNG: And I'm not sure this makes
20 a big difference in your analysis, but it
21 just left me a little confused. Line 3, you
22 state you estimate conversion costs at
23 approximately \$18 million. Do you see that?

24 THE WITNESS: What page?

25 MR. YOUNG: Page 9.

1 THE WITNESS: On May 30th?

2 MR. YOUNG: May 30th, A corrected
3 May 30th.

4 THE WITNESS: Oh, okay.

5 MR. YOUNG: I'm sorry. I simply read
6 the corrected one after.

7 THE WITNESS: That's okay. What line?

8 MR. YOUNG: Three.

9 THE WITNESS: Three, okay.

10 MR. YOUNG: Page 9.

11 THE WITNESS: Okay. I am on page 9,
12 yes.

13 MR. YOUNG: Your pagination appears to
14 be --

15 THE WITNESS: It might be different
16 because I have revisions.

17 MR. YOUNG: You are looking at the red
18 line version.

19 THE WITNESS: Yep.

20 MR. YOUNG: Okay. Question ten halfway
21 through, four lines from the end, we estimate
22 conversion cost to be approximately \$18
23 million.

24 THE WITNESS: Okay.

25 MR. YOUNG: 2012; correct?

1 THE WITNESS: Correct.

2 MR. YOUNG: Then look on the next page,
3 or the next page for me, which is in the
4 middle of your discussion of construction
5 impacts, halfway through you have a sentence
6 that says in the course of bringing natural
7 gas we -- businesses and households will
8 spend an estimated 20.4 million for needed
9 equipment, just a matter of conversion
10 incentives. That sounds like conversation
11 costs.

12 THE WITNESS: Right. One has incentives
13 and the other doesn't.

14 MR. YOUNG: Well, I'm trying to
15 understand. Because your 20.4 is netted
16 intensive so you would think that would be
17 lower if that were the case rather than
18 higher.

19 THE WITNESS: Can you read the sentence
20 again?

21 MR. YOUNG: Which sentence are you
22 looking for?

23 THE WITNESS: The one with 20 million.

24 MR. YOUNG: The one with 20 million
25 starts in the course of bringing natural gas.

1 MS. HAYDEN: I think it's going to help
2 if I give the witness the version that was
3 filed with the corrections rather than the
4 track version, if you turn to page nine.

5 THE WITNESS: Okay.

6 MS. HAYDEN: Mr. Young can give you a
7 page and line reference.

8 MR. YOUNG: The version I'm working off
9 of is the one that's admitted; correct?

10 MS. HAYDEN: Correct, it's not track
11 changes.

12 MR. YOUNG: So let me start with the
13 first reference was page 9, line 3.

14 THE WITNESS: Got it.

15 MR. YOUNG: Second reference is page 10,
16 line 16.

17 THE WITNESS: Because I believe the
18 difference is that -- okay. I am just
19 reading.

20 MR. YOUNG: That's fine.

21 THE WITNESS: Other one was -- oh, here.
22 Okay.

23 MR. YOUNG: Page 9, line 3; page 10,
24 line 16.

25 THE WITNESS: I believe the difference

1 may be that one is only relative to
2 households, which is the 18 million. And the
3 20.4 million may also include some of the
4 expense by the utility to get the line into
5 the house.

6 MR. YOUNG: Do you know which of these
7 you actually used in your analysis?

8 THE WITNESS: We used both of them. We
9 used the 20.4 impact of a construction costs.
10 And we use the 18.4, the \$18 million number
11 and the estimated impact on household, on
12 households.

13 MR. YOUNG: Just for the house.

14 THE WITNESS: Yes. It's, it actually
15 also includes business. What businesses and
16 households spend themselves and then the
17 construction budget includes what the VGS
18 does for piping and distribution system, but
19 also what they spend to get from the
20 distribution pipe to get service into the
21 house.

22 MR. YOUNG: You are saying the larger
23 one includes additional construction cost --

24 THE WITNESS: Yes.

25 MR. YOUNG: Okay. That's what I was

1 wondering if --

2 THE WITNESS: Yeah, I'm glad you brought
3 that up.

4 MR. YOUNG: Because your sentence
5 actually for the larger one says households
6 and businesses, it doesn't refer to VGS.

7 THE WITNESS: Yes, yes.

8 MR. YOUNG: You are intending to include
9 VGS?

10 THE WITNESS: Well, it's VGS's
11 expenditures are included. In the 18 million
12 it is only the households and businesses own
13 expenses.

14 MR. YOUNG: Okay. Thank you.

15 I didn't understand that distinction.
16 Let me move to a different, oh, actually that
17 brings up one thing.

18 Your estimate is on page 10. It says
19 net of conversion incentives.

20 To your understanding is Vermont Gas
21 providing financial incentives for
22 conversions?

23 THE WITNESS: We need to put a number in
24 for incentives for conversions that VGS is
25 providing.

1 MR. YOUNG: And is that simply -- is
2 that an actual reduction in what would be the
3 price of connection or is that a changing the
4 timing which the customer is going to pay the
5 price of connection?

6 THE WITNESS: Well, two things. Number
7 one, what it does is reduces the up-front
8 out-of-pocket expense the households and
9 businesses to convert. I guess it's
10 households. I don't think they are providing
11 to businesses, providing to households.

12 And if you believe that later on that
13 those incentives go into the cost of doing
14 business, it could be viewed as a device for
15 spreading out part of the cost for the
16 conversions.

17 MR. YOUNG: Okay. So there actually is
18 a discount on what the otherwise other
19 connection fee might be, connection cost
20 might be?

21 THE WITNESS: Well, I think it's an
22 incentive based on their expenses for the
23 conversion equipment. If they are buying,
24 you know, heat plan or hot water heater, or
25 whatever.

1 I'm not aware that it's specific to any
2 one individual thing. But from the
3 standpoint of analyzing economics of it, we
4 felt that it was important to include that.

5 As a matter of fact, in the December
6 testimony we didn't include it. And in the
7 correction we did include it. Because what
8 it does is it reduces the out-of-pocket
9 expense for the conversion for the households
10 in the economic model.

11 MR. YOUNG: Just curious. Are these
12 intended to be incentives associated with the
13 Energy Efficiency Program, to your knowledge?

14 THE WITNESS: You would have to ask the
15 person there on that. I'm not exactly sure
16 where this came from.

17 MR. YOUNG: Next question, page 13. You
18 use the same version in the testimony?

19 THE WITNESS: Yes.

20 MR. YOUNG: At least we're aligned.

21 At the top up here you state on average
22 more than 20 jobs we lost each year for the
23 state economy during the operation phase.

24 Are you attempting to draw a causal
25 linkage to the pipeline, or is this just 20

1 job losses or the normal attrition rate you
2 are expecting in Addison County during the
3 period?

4 THE WITNESS: What they are is when we
5 measure the net effects, when we measure the
6 effects of first gross field savings and the
7 net field savings after conversion costs.
8 And then we bring into the equation that I
9 think, is this the state one or is this --
10 let me just read it so I know whether or not
11 it's a service territory or the whole state.

12 Oh, you are referring to substitution
13 effects?

14 MR. YOUNG: I am actually trying to get
15 clarification as to exactly what you are
16 referring to here because I saw the 20 job
17 loss and I wasn't sure what you were talking
18 about.

19 THE WITNESS: This is the state effect.
20 So it includes not only the fuel savings and
21 economics effects of what's happening in the
22 service territory, but we also brought in to
23 the equation which would serve to reduce the
24 effects, the contributions by the ratepayers
25 to the fund, to the expansion fund that were

1 not in Addison County, in Chittenden and
2 Franklin County.

3 And so what we wanted to do was make
4 sure because the contributions of the funds
5 would begin the rates for Addison County,
6 Addison County ratepayers, that we also took
7 into consideration that the expansions being
8 funded by a fund that was created and
9 approved by the Board for ratepayers that are
10 in Franklin and Chittenden County, and that
11 those would be reductions in the disposal
12 personal income for those households than it
13 would be a geographic transfer from Franklin,
14 Chittenden County to Addison County. Sorry
15 it's confusion. This is a very complex
16 analysis. One of the most complex.

17 MR. YOUNG: Actually, your explanation
18 is very clear. I just didn't get that when I
19 read the testimony which is why I'm asking.

20 THE WITNESS: It's hard to do that in 16
21 pages. Or 14 pages, excuse me.

22 MR. YOUNG: Let me turn you to your
23 rebuttal testimony.

24 THE WITNESS: Okay.

25 MR. YOUNG: Start on page 2. In here --

1 THE WITNESS: Searching for it. I know
2 I have it here. Here it is, okay.

3 MR. YOUNG: The testimony of June 28th.

4 THE WITNESS: Yep.

5 MR. YOUNG: In general you state that
6 Vermont Gas does not believe that natural --
7 or at least you don't believe natural gas
8 prices will remain in the same relationship
9 with oil as it exists now; correct?

10 THE WITNESS: Well it's not my belief.

11 The forecast that we use is the USCIA
12 New England for region. And it tracked
13 prices for natural gas, fuel oil, and propane
14 over time.

15 What we did was we started with where
16 prices were at the time that we did the
17 analysis. And then each year we escalate
18 each price going forward by the rate of
19 change in the USCIA forecast.

20 MR. YOUNG: I think what I'm wondering
21 is, I mean, I understand what, you know, your
22 statement here. And then when I look at the
23 next page, page three and four, you present
24 comparisons and projections of the price of
25 oil and the price of natural gas.

1 And when you look at over the 20 years,
2 approximately 20 years, on average they are
3 almost the same, 1.7 for oil, 1.8 for natural
4 gas.

5 I mean, I understand, I assume they vary
6 in between, but the net effect is these
7 long-term prices essentially assume that over
8 the next 20 years oil and gas are going to
9 track, don't they?

10 THE WITNESS: Well, not in all cases and
11 not in all customer classes. If you look, I
12 mean, if you go out the full 20 years you
13 will see that there are similar, I mean they
14 are within ten percentage points of each
15 other, rates of increase in both natural gas
16 and West Texas Intermediate Crude Oil for
17 example.

18 If you look at the USCIA data that's
19 clear, they go up. I mean, both of them go
20 up. They track north. They don't -- and in
21 each individual years you are right, there is
22 some ups, some downs, but when you get to the
23 end they are not different from each by more
24 than ten percentage points.

25 And in some cases, you know, you perhaps

1 maybe expect that, but they are long-term
2 projections and they are subject to all the
3 uncertainties that come with long-term
4 projections. But the nominal price keeps
5 going up for both.

6 And so, I mean, I take exception to the
7 descriptions that we somehow straight line
8 something or there is no change in nominal
9 price. There, of course, is. There is every
10 expectation that there will be. And the
11 USCIA spends a long time talking about things
12 like international demand between developing
13 and developed countries. U.S. demand, they
14 break it down for everything from residential
15 to commercial, industrial. They look at
16 transportation. They look at fuels used in
17 energy, and electric energy generation.

18 And they look at all these things in a
19 very cohesive and integrated way. I mean,
20 I've used the USCIA for the last 23 years.
21 I've used it in some of my independent
22 variables and some of the revenue forecasts
23 that I do in the legislature, familiar with
24 them.

25 And, I mean, I think they look at it in

1 very objective transparent way. They look at
2 all sorts of things that are happening in the
3 industry on both the demand and the supply
4 side from, you know, emission standards, cafe
5 standards, some of the, you know, significant
6 state legislation, emission, all those types
7 of things. And they try to bring this
8 altogether in a way that is transparent and
9 it's credible. They have an awful lot of
10 people looking at an awful lot of moving
11 parts. And they are just not looking at
12 certain things and those types of things.

13 So, I mean, we use their long-term
14 forecast to escalate from the starting point
15 to the three fuels we were involved in. And,
16 I mean, you have to start from where you are
17 when you begin the analysis. And we felt
18 that was a reasonable way to look at things
19 going forward recognizing that there are some
20 differences, there are some differences
21 within the years when you get to the end, all
22 these fuels are going north in terms of their
23 cost for MMBtus.

24 MR. YOUNG: Let me try discount rates.
25 I will see if I follow on what Mr. Saudek was

1 asking you before.

2 You assumed a three percent discount
3 rate for your primary analysis; correct?

4 THE WITNESS: We did, yes.

5 MR. YOUNG: And you explained some of
6 your rationale in your testimony and some in
7 answers to Mr. Saudek. My question is the
8 following. Is that a reasonable discount
9 rate to apply to industrial classes? I mean,
10 I understand it's logic, but a lot of that
11 logic relates to, you know, residential
12 customers.

13 THE WITNESS: Uh-huh, uh-huh.

14 MR. YOUNG: Does that same rationale
15 apply to industrial customers?

16 THE WITNESS: That's a good question. I
17 think it could. I mean, you know, most
18 industrial customers, you know, they have an
19 opportunity cost to their capital too. And,
20 you know, they could be higher than three
21 percent. They could be up, you know, in the
22 five to six percent range. Right now the
23 opportunity cost for a lot of household
24 capital is at less than one percent.

25 So, you know, when you look at this from

1 the standpoint of, you know, the docket that
2 we looked at for Energy Efficiency which
3 seemed to be the same type of expenditures.
4 And I happen to believe there's probably also
5 a societal benefit to what's going on.

6 I mean, one of the things I've been
7 doing is saying okay, how can I illustrate,
8 for example, what the benefit of fuel cost
9 savings would be to households, as an
10 example. But also to businesses. I mean, I
11 think we had a good dialogue about how
12 important that is, you know, in terms of
13 interstate competitiveness of our businesses.

14 But one of the things that I did, and
15 it's not perfect science, but I think it's
16 something that could illustrate the point, is
17 if you look at the LIHI budget for the state
18 of Vermont in 2014, it's about \$23.9 million.
19 If you look at our state population and you
20 look at it per capita, it boils down to about
21 \$36 and some change per capita.

22 Let's say when you look at Addison
23 County and you realize that Addison County is
24 ranked tenth out of 14 counties in per capita
25 personal income, let's double that. Let's

1 say \$76. And you look at the fuel savings
2 after the conversions that we expect to occur
3 about four years out in 2018.

4 If you look at the size of the net fuel
5 cost savings, relative to LIHI budget and it
6 exceeds it by 92 percent.

7 So I happen to think there is some
8 societal benefit by perhaps approving this
9 petition as well because it's a really good
10 well for households in one of our poorer
11 counties in the state to be able to realize
12 some relief on their household budgets.

13 So all those things kind of went into
14 thinking that three percent overall was
15 reasonable. You can argue that it's high. I
16 mean, it's low, and that it should be higher.

17 And really the thing is that on a
18 present value basis there is a lot of
19 daylight in terms of the net benefits in
20 state of Vermont. So increase up to five
21 percent you are not going to increase the
22 equation. Increase the ten percent, you are
23 not going to reverse the equation.

24 And so we could argue about that, you
25 could argue about whether or not the net

1 present value discount rate that I used is
2 appropriate. I think it's in the ballpark.
3 But could it be 3.5 percent? Sure. But
4 that's not going to fundamentally alter the
5 conclusion.

6 MR. YOUNG: So if you use the higher
7 rate such as the 9.75 percent, I think you
8 modeled something close to 9.75 percent which
9 is Vermont Gas's cost of capital. You used
10 something higher.

11 THE WITNESS: No, I need to correct you
12 on that. I think the Department's witness
13 did that, not I. But in that case, I mean,
14 I'm not going to argue with the Department
15 over that. But I would argue that what do
16 household or business expenses have to do
17 with the petitioner's weighted average cost
18 of capital.

19 And I think we need to stay focused on
20 who in your question previously about
21 businesses is I think a good one.

22 But, you know, I think three percent
23 would be reasonable. I am not going to argue
24 against four percent or three and a half
25 percent or even five. I don't think there is

1 a good argument. What I was tasked to do was
2 put forth the analysis that I think is most
3 reasonable and that's why I selected three.
4 And I thought I was actually doing something
5 that was positive because there was another
6 docket that used that that seemed to be
7 similarly focused to what we were talking
8 about.

9 MR. YOUNG: Right.

10 THE WITNESS: And you can disagree with
11 me on that and I understand.

12 MR. YOUNG: No, I understand that. I
13 guess what I was trying to get. I stand
14 corrected. It's the Department's analysis,
15 even that shows with the higher 9.75 discount
16 rate it's still positive; correct?

17 THE WITNESS: Yeah, I read Mr. Hendel's
18 testimony to that effect and I think that's
19 true. Although I would disagree with using
20 the Petitioner's weighted average cost of
21 capital.

22 MR. YOUNG: Right, and I understand
23 that, that particular one.

24 Just one more on this point. And even
25 though we've just acknowledged that it may

1 not matter a whole lot which discount rate us
2 use in terms of the ultimate direction
3 numbers at this point.

4 When you were referring to Energy
5 Efficiency as part of the model, but Energy
6 Efficiency programs, particularly especially
7 for industrial customers, don't intend to end
8 up offering incentives that basically create
9 a very short time horizon that starts turning
10 positive for the business customer. And
11 doesn't that in turn suggest a very high
12 discount rate for industrial customers?

13 THE WITNESS: It could. You didn't do
14 that in the other docket. So it could. But,
15 you know, I'm measuring this over 20 years.

16 MR. YOUNG: Right.

17 THE WITNESS: Which I've been criticized
18 for being too short.

19 MR. YOUNG: Right. I will leave it at
20 that. Thank you very much.

21 THE WITNESS: Thank you.

22 CHAIRMAN VOLZ: Any follow-up to our
23 questioning? Good. Any redirect?

24 MS. HAYDEN: If I could have a moment
25 with the witness. I think we may need to

1 make a correction.

2 CHAIRMAN VOLZ: Okay.

3 THE WITNESS: I misspoke.

4 REDIRECT EXAMINATION BY MS. HAYDEN:

5 Q Mr. Carr, you were asked a series of questions. I'm
6 sorry. Mr. Carr, you were asked a series of questions from
7 Mr. Young concerning values stated at pages 9 and 10 of
8 your testimony. And they, the references were to 18
9 million on page 9 and 20.4 million on page 10?

10 A Yep.

11 Q You have since looked at your Exhibits 1 and 2 to
12 your testimony. Can you spell clarify for the record the
13 difference between those two values and what they
14 represent?

15 A What I said was technically correct, but not on
16 point. The difference is that the \$20.4 million number is
17 in nominal dollar terms. And the other number was a net
18 present value terms. Okay. So I was reading too fast and
19 I apologize for misspeaking.

20 CHAIRMAN VOLZ: Any other redirect?

21 MS. HAYDEN: No, thank you.

22 CHAIRMAN VOLZ: Thank you, Mr. Carr.

23 You are excused.

24 I think we are up to Mr. Teixeira you
25 want next or would you rather do somebody

1 else?

2 MS. HAYDEN: I defer to the Board.

3 CHAIRMAN VOLZ: According to what, he is
4 yesterday's witness, so I guess it would be
5 nice to get him done.

6 MS. HAYDEN: I think he would love to.

7 Ms. Porter, did you ask --

8 MS. PORTER: No, no. I'm sorry. Mr.
9 Poor just wanted to be certain to hear
10 Mr. Carr's testimony.

11 MS. HAYDEN: Oh, okay.

12 JEAN-MARC TEIXEIRA, called as a witness, and
13 having been first duly sworn by a Notary Public, was
examined and testified as follows:

14 DIRECT EXAMINATION BY MS. HAYDEN:

15 Q Mr. Teixeira, can you please state your occupation?

16 A I am vice president of operations for Vermont Gas
17 Systems.

18 Q Do you have in front of you a document entitled
19 Prefiled Testimony of Jean-Marc Teixeria dated December 20,
20 consisting of 23 pages together with a cover page and
21 index?

22 A Yes.

23 Q Was that document prepared by you or under your
24 direct supervision?

25 A Yes, it was.

1 Q Is it true and accurate to the best of your
2 knowledge and belief?

3 A Yes, it is.

4 Q Are there any corrections?

5 A No.

6 Q No exhibits to that testimony; correct?

7 A Correct.

8 Q Do you also have a document entitled Rebuttal
9 Testimony of Jean-Marc Teixeria on behalf of Vermont Gas
10 Systems dated June 28, 2013, consisting of seven pages
11 together with a cover page and a table of contents?

12 A Yes.

13 Q Was that document prepared by you or under your
14 direct supervision?

15 A Yes it was.

16 Q True and accurate to the best of your knowledge and
17 belief?

18 A Yes.

19 Q Are there any corrections?

20 A I would like to clarify that VGS has agreed to adopt
21 the additional safety measures that the DPS David Berger
22 has recommend in his August 14, 2013, rebuttal testimony.
23 These measures to exceed and standards set forth in Title
24 49, Code of Federal Regulations, Part 190 to 199. And the
25 other standards I recite at page 11 through 17 in my

1 December 20th, 2012 prefiled testimony.

2 Q Thank you. So with that clarification you are just
3 notifying the Board that you essentially, the reference to
4 the standards in your earlier testimony Vermont Gas has
5 agreed to adopt the higher standards that Mr. Berger has
6 recommended; correct?

7 A That is correct.

8 MS. HAYDEN: With that I offer the
9 prefiled testimony direct and rebuttal of
10 Jean-Marc Teixeria.

11 CHAIRMAN VOLZ: Any objections? Okay.
12 They are admitted.

13 MS. HAYDEN: The witness is available.

14 CHAIRMAN VOLZ: All right. Ms. Levine?

15 MS. LEVINE: No questions.

16 CHAIRMAN VOLZ: Mr. Diamond?

17 MR. DIAMOND: No questions.

18 CHAIRMAN VOLZ: The Department?

19 MS. PORTER: Thank you.

20 CROSS EXAMINATION BY MS. PORTER:

21 Q Good afternoon, Mr. Teixeria.

22 A Good afternoon.

23 Q You have just told the Board that VGS has agreed to
24 accept a condition that they earlier on had not agreed to
25 accept?

1 A That is true.

2 Q Okay. That would be stated on page 13 of
3 David Berger's rebuttal testimony, page 13. Page 13 on to
4 page 14. That was an area of prior disagreement that you
5 now have reached agreement.

6 A Correct.

7 Q Okay. I believe that earlier Mr. Heintz told us
8 that the company would accept as CPG conditions all of the
9 items that had previously been agreed to. In other words,
10 those that were talked about up to page 13 of Mr. Berger's
11 testimony. Do you recall that?

12 A Yes, I do.

13 Q And would the company also accept the one that had
14 previously not been agreed to as an additional CPG
15 condition?

16 A I believe that's the 95 percent testing?

17 Q No, the safety, the training and the tabletop
18 exercises.

19 A We will do that. The clarification we had on that
20 is that Vermont Gas will offer the training as it does to
21 its existing fire departments through our system. And as
22 far as the tabletop exercise if requested by the folks we
23 will provide that. We will participate.

24 Q And the company would have no objection if the Board
25 put that as a condition in the CPG?

1 A Correct.

2 Q Okay. All of these safety measures taken together
3 that the company has agreed to take on, have those added to
4 the cost of the project?

5 A Probably has, yes. There's several things like the
6 increasing all type to a Class III. Took a while pipe
7 throughout the project and that means there will be more
8 cost involved.

9 Q Okay. You don't have any estimate of what the
10 totality of these various costs?

11 A I don't have that off the top of my head.

12 Q Okay. I think that Ms. Simollardes testified about
13 them briefly, but we were talking about whether or not the
14 project was in any way needed or a benefit to your current
15 customers. Do you recall that?

16 A Yes, we were talking about reliability. There are
17 one of the benefits is by bringing the pipeline around the
18 Williston and bringing it south of Burlington, it kind of
19 loops our existing system. And then by putting in one of
20 the gate stations in Williston it will be able to back feed
21 into our existing Burlington system. About 70 to
22 80 percent of our customers exist in the Burlington area.

23 So by having another gate station on the opposite
24 side helps back to the system. So if we had issues with
25 one of our gate stations on the north side of Burlington,

1 we would be able to pick up some of that demand.

2 Q Thank you. Are you someone at the company who is
3 involved in the process of evaluating need if the company
4 looks to expand?

5 A Need, yes. In facility requirements?

6 Q Uh-huh.

7 A Yes.

8 Q Okay. And would you say that there's quite a
9 difference in analyzing need with respect to an existing
10 system as opposed to analyzing need for an expansion?

11 A Yes. When we have an existing system we model that
12 system and we're taking a look at how that delivers with
13 that. When you are looking at a future system and we're
14 trying to project some of our future volumes.

15 Q The second analysis would be more driven by what you
16 perceive to be market demand?

17 A Correct.

18 Q Okay. Is it possible in the expansion context to
19 even think about energy efficiency or load management
20 measures as you analyze need?

21 In other words, would they be reasonable
22 alternatives to building when you are talking about an
23 expansion to --

24 A In our expansion needs we already have the demand
25 side management taken into account.

1 Q I think we may have touched on this one a little bit
2 earlier as well. But if for some reason Phase II is not
3 approved, is not built, would VGS have been able to serve
4 the Phase I market with a smaller pipeline than the one
5 presently proposed?

6 A There are several different ways that could have
7 served the Phase I market. And we have had looked at
8 several different options to that.

9 Q Could you outline those for us?

10 A We had looked at the one bringing the gas, we had to
11 expand the transmission line. We looked at bringing the
12 transmission line around the Williston area and ending it
13 one time into the South Burlington area. And trying to run
14 a distribution line from there all the way to Middlebury.
15 We had a very -- we could only feed up to Middlebury, that
16 would be the end of that.

17 Then further we looked at how far to bring the
18 transmission. Had other folks come in, bring the
19 transmission line further south, bringing it to the Monkton
20 area. And then when International Paper approached it
21 brought a different level of analysis and we were bringing
22 the transmission line further south and changing some size
23 of that pipe.

24 Q So there probably are alternative methods of serving
25 this proposed market, but due to the totality of your plans

1 you chose to size the pipeline other -- larger than you
2 otherwise would have?

3 A In the long-range plan is to eventually get the pipe
4 to Rutland.

5 MR. COEN: I could follow up.

6 If International Paper was not part of
7 the equation, would the size of the pipe
8 change going to Rutland?

9 THE WITNESS: In our initial analysis we
10 have a ten-inch pipe ending in the Monkton
11 area for that. The trade-off is when you go
12 to Rutland it impacts other parts of the
13 system. So if we had run ten-inch initially,
14 then run the line to Rutland we would have to
15 put a lot more looping pipe further north to
16 take care of that load in Rutland. By
17 putting the twelve-inch we actually reduced
18 that future looping pipe.

19 BY COEN: Thank you.

20 MS. PORTER: I have no more questions.
21 Thank you, Mr. Teixeria.

22 MS. TIERNEY: Good afternoon, almost
23 evening, Mr. Teixeria.

24 THE WITNESS: Good afternoon.

25 MS. TIERNEY: I would like to explore

1 with you just a little bit a discovery
2 response that I understand from Mr. Palmers'
3 testimony you gave in the course of his case.

4 On Page 12 of Mr. Palmers' rebuttal
5 testimony, I'm just going to read it into the
6 record for the sake of efficiency. At line
7 15 on page 12 he says, do you have any other
8 concerns with the testimony of the witnesses
9 the DPS submitted.

10 Answer: I have been worried about toxic
11 gases that will be running just below the
12 soil on my organic farm.

13 And in the Department of Public Service
14 question they ask in question PSD colon VGS
15 point 3 dash 2, 15-A, will you agree to
16 develop and implement a program to modify for
17 and mitigate the presence of deleterious
18 gas to constituents.

19 Mr. Teixeira's answer is, quote, VGS
20 relies upon the upstream suppliers to monitor
21 the gas upstream on behalf of VGS.

22 I'd like to understand that answer just
23 a little better.

24 Should I understand that what happens is
25 the gas goes into the pipeline at a certain

1 point upstream from your system, and at that
2 time whatever constituents it has, it has; is
3 that right?

4 THE WITNESS: We have one supplier of
5 gas, one source of that gas, TransCanada
6 Pipeline System. TransCanada accepts the
7 gas. It is to their pipeline quality we
8 match theirs. That should take care of those
9 issues. Natural gas is not toxic.

10 MS. TIERNEY: Okay. So TransCanada
11 monitors what goes into its pipe to begin
12 with, and then the transfer from your system,
13 from TransCanada system, to your system is
14 seamless; is that it?

15 THE WITNESS: Correct. It goes through
16 a meter at the border, we accept the gas,
17 then bring it to our customer.

18 MS. TIERNEY: Okay. So to the best of
19 your knowledge can you help me understand
20 what sort of monitoring TransCanada does?

21 THE WITNESS: TransCanada would be
22 looking at sulfur content. They would be
23 looking at water content. They would
24 probably looking at levels of nitrogen and
25 carbon dioxide in their pipeline.

1 MS. TIERNEY: I see. Do you have any
2 reason to think that TransCanada has any less
3 incentive than you do to ensure that those
4 elements are not in your gas pipeline?

5 THE WITNESS: No, they have -- we all
6 have the same incentive and that is to worry
7 about the effect of the gas either on the
8 pipe itself or on our customers.

9 MS. TIERNEY: Okay.

10 CHAIRMAN VOLZ: Excuse me. Do you do
11 monitoring on your system to make sure that
12 the quality of the gas you are actually
13 getting is what you think it is?

14 THE WITNESS: What we do we see their
15 reports.

16 CHAIRMAN VOLZ: I'm sorry?

17 THE WITNESS: We see the TransCanada
18 reports. We have access to those. And that
19 is how we monitor.

20 CHAIRMAN VOLZ: So TransCanada does some
21 testing to make sure that the quality of the
22 gas is a certain level?

23 THE WITNESS: Yes, they do. They
24 basically would probably go through what's
25 called a colorimeter, measures the components

1 of the gas. You would also get the BT level
2 of the gas that way.

3 MS. TIERNEY: So just to finish the line
4 of questioning. To your knowledge again what
5 type of oversight or regulation is
6 TransCanada subject to in conducting those
7 monitoring activities?

8 THE WITNESS: I really don't have a
9 handle on what their level of regulatory.
10 They have their own codes, but I don't know
11 what that level is.

12 MS. TIERNEY: You mean they have their
13 own codes, or they have codes that are
14 promulgated by Canada, the country, or the
15 province to which they are subject?

16 THE WITNESS: By Canada. It's very
17 similar to our DOT code.

18 MS. TIERNEY: And that would be the
19 Department of Transportation, DOT?

20 THE WITNESS: Yes, DOT, correct.

21 MS. TIERNEY: Thank you. I have no
22 further questions.

23 MR. YOUNG: Just one area. Page 10 of
24 your testimony. You have a projection of --

25 CHAIRMAN VOLZ: Which testimony?

1 MR. YOUNG: Prefiled testimony, December
2 20, original direct testimony.

3 You have a projection here basically of
4 peak day demand and system capacity going out
5 for the next several years; is that
6 correct.

7 THE WITNESS: Correct.

8 MR. YOUNG: If I look at this it looks
9 like you are going to start working on
10 needing to do something further sometime
11 around the 2018 time period; is that correct?

12 THE WITNESS: My -- table three?

13 MR. YOUNG: I'm looking at table three.
14 I'm just extrapolating in terms of your
15 increase in -- or actually I'm extrapolating
16 at the rate of which the estimated system
17 capacity excess due to declining, you would
18 suggest that sometime in the 2018, '19 period
19 you are going to need more looping; is that
20 correct?

21 THE WITNESS: That's correct.

22 MR. YOUNG: Do I assume that VGS in the
23 context of the proposed system expansion
24 looked at whether there are any efficiencies
25 to be deemed by doing more capacity? You

1 mentioned capacity earlier as part of this
2 project.

3 THE WITNESS: I'm sorry. I'm looking at
4 the table. The last column says estimated
5 system capacity excess or short form.

6 MR. YOUNG: Right.

7 THE WITNESS: So in 2017 the access has
8 come down to 1623.

9 MR. YOUNG: Right. And if it came down
10 in the next year at the same rate it did
11 between 2017 and 2016 you'd be down --

12 THE WITNESS: We could probably need
13 something, yes.

14 MR. YOUNG: I was just wondering as part
15 of this project, knowing that you are going
16 to have that need to do something further on
17 capacity, presumably looping, did you look at
18 additional things you could do as part of
19 this construction now that might have been
20 more cost effective in the long-term?

21 CHAIRMAN VOLZ: A need for that looping?

22 MR. YOUNG: Change the time, eventually,
23 presumably eventually they will need looping
24 anyway.

25 THE WITNESS: Correct. Eventually as we

1 meet our system needs and as that access
2 falls, we do look at alternatives. Right now
3 looping is probably the preferred way to meet
4 that shortfall in the future. One of the
5 benefits of looping up north we start with a
6 parallel pipeline. And parallel pipelines,
7 since we are a single feed system, offers
8 reliability benefits. That's valuable to us
9 and our customers.

10 MR. YOUNG: So do I assume that if you
11 start to having a shortfall in 2018, 2019
12 time period, the optimal solution is likely
13 to be looping, basically the next loop down
14 on that system?

15 THE WITNESS: Right. In our IRP we have
16 looked at other things, like LNG or other
17 types of supply options. Right now we do
18 prefer looping.

19 MR. YOUNG: And I guess the question is
20 from VGS's perspective there wasn't any
21 advantage to trying to do sort of a combined
22 project that started taking that into account
23 now, basically making --

24 THE WITNESS: No.

25 MR. YOUNG: -- project?

1 THE WITNESS: We're putting in Phase 6
2 now looping. And that will take care of our
3 Middlebury exchange as well our existing
4 rope.

5 MR. YOUNG: That's all the questions.
6 Thank you.

7 CHAIRMAN VOLZ: Any follow-up to our
8 questions? Okay.

9 CROSS EXAMINATION BY MR. PALMER:

10 Q Would the future of looping be up in this part or
11 down toward the Middlebury area?

12 A Future looping would be up north, north of
13 Burlington on our existing main line system.

14 CHAIRMAN VOLZ: Any other follow-up?
15 Any redirect?

16 MS. HAYDEN: No, thank you.

17 CHAIRMAN VOLZ: Okay. Thank you,
18 Mr. Teixeira. You are excused. Who has
19 cross for Mr. Nelson at this point? Ten
20 minutes?

21 MS. DILLON: Five to ten minutes.

22 MS. DILLON: I may have some questions
23 on the MOU just to clarify for --

24 CHAIRMAN VOLZ: For Mr. Nelson.
25 Mr. Palmer, you signed up for

1 Mr. Nelson; is that right?

2 MR. PALMER: Yes, I did.

3 CHAIRMAN VOLZ: Mr. Diamond?

4 MR. DIAMOND: No questions.

5 CHAIRMAN VOLZ: Okay. So that means
6 we're down to 25 minutes. Would people like
7 to try to finish him today or wait until
8 tomorrow? It's been a long day.

9 MS. HAYDEN: The witness has stated he
10 would prefer to do it in the morning.

11 CHAIRMAN VOLZ: I think that's fine with
12 us. So thanks, everyone. We'll see you
13 tomorrow.

14 (WHEREUPON, the Technical Hearing was
15 adjourned at approximately 5:00 p.m.)
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